

HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for)
Certification for the) Docket No. 90-AFC-1
ELK HILLS POWER PROJECT)
_____)

CALIFORNIA ENERGY COMMISSION
FIRST FLOOR HEARING ROOM B
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

THURSDAY, JANUARY 20, 2000
10:00 A.M.

Reported by:
Debi Baker
Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBER PRESENT

David Rohy, Vice Chairman, Presiding Member

Michal Moore, Associate Member

STAFF PRESENT

Major Williams, Jr., Hearing Officer

Gary Fay, Hearing Officer

Bob Eller, Adviser to Vice Chairman Rohy

Shawn Pittard, Adviser to Commissioner Moore

Kerry Willis, Staff Counsel

Marc S. Pryor, Siting Project Manager

Steve Baker

M. Kisabuli

Nancy Tronaas

David Flores

Joseph Diamond

Robert Anderson

Kathryn M. Matthews

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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1 P R O C E E D I N G S

2 10:00 a.m.

3 PRESIDING MEMBER ROHY: Good morning.

4 Welcome to the Elk Hills Power Project evidentiary
5 hearings. I'm David Rohy, Presiding Member of the
6 Committee on this, at least for today. And I will
7 introduce our Hearing Officer in a moment.

8 But just say this is my last hearing on
9 this project because as of next week I will be
10 leaving the Commission, and Commissioner Moore
11 will be the Presiding Member for this. So as you
12 go forward you should be looking his way, rather
13 than mine. Although I'm interested in this I will
14 not be a decision-maker at the end of the case.

15 But Major Williams is our Hearing
16 Officer, and I'd like to introduce him. And,
17 please proceed.

18 HEARING OFFICER WILLIAMS: Good morning.

19 We are there this morning to conduct evidentiary
20 hearings on the application for certification for
21 the Elk Hills Power Plant, docket number 99-AFC-1.

22 All of the hearings in this matter are
23 to be conducted in Sacramento in Hearing Rooms A
24 or B at the offices of the California Energy
25 Commission consistent with the intent of the

1 parties.

2 We've already introduced the Committee,
3 and now we'd like to ask the parties to introduce
4 themselves, as well as the advisors.

5 MR. ELLER: I'm Bob Eller;, Principal
6 Advisor to Dave Rohy.

7 MR. PITTARD: I'm Shawn Pittard, I work
8 for Commissioner Moore.

9 MS. LUCKHARDT: My name is Jane
10 Luckhardt. I am a partner with the lawfirm of
11 Downey, Brand Seymour and Rohwer. And -- sorry
12 I'm losing my voice -- and I'm representing the
13 applicant today.

14 My co-counsel on this case is Mr. Taylor
15 Miller. He's seated to my right. To my left are
16 two representatives from Elk Hills Power, Mr. Joe
17 Rowley and Mr. Dennis Champion.

18 MS. REYNOLDS: Lizanne Reynolds,
19 attorney for CURE, the California Unions for
20 Reliable Energy.

21 MS. WILLIS: I'm Kerry Willis, Staff
22 Counsel for the Energy Commission Staff. And to
23 my left is Marc Pryor, Project Manager.

24 HEARING OFFICER WILLIAMS: Thank you.
25 At this time I would like to ask is there any

1 members of the public here interested in these
2 proceedings, to come and identify themselves for
3 the record.

4 Again, there's no amplification system
5 in the room so you'll have to come up to one of
6 the microphones here at the table to introduces
7 yourselves, if there's anyone here.

8 Seeing no one, I'll continue. On
9 December 22, 1999, the Committee issued a notice
10 scheduling today's hearing. During the course of
11 today's hearing the Committee will take occasional
12 short recesses, as well as a lunch break to be
13 announced later.

14 The notice indicated scheduled hearings
15 on January 20th, 25th, 27th and if needed,
16 February 1, 2000, to cover many of our topics.

17 The Committee's preference is that we
18 continue over to the next hearing on Tuesday,
19 January 25th, those matters that are not concluded
20 today before moving on to the matters scheduled
21 for that day. Then, should we not conclude those
22 matters scheduled for January 25th, those matters
23 would be continued on to the next hearing date of
24 Thursday, January 27th, and so on.

25 Evidentiary hearings are formal in

1 nature, similar to court proceedings. The purpose
2 of the hearings is to receive evidence including
3 testimony, and to establish the factual record
4 necessary to reach a decision in this case.

5 The applicant has the burden of present
6 sufficient substantial evidence to support the
7 findings and conclusions required for
8 certification of the proposed facility.

9 The order of testimony will be taken as
10 follows for each topic. The applicant, staff and
11 CURE.

12 We will address the topics in the
13 sequence contained in the hearing order. First we
14 will hear testimony on the project description;
15 followed by facility design; compliance; power
16 plant reliability; power plant efficiency; visual
17 resources; socioeconomics; cultural resources;
18 noise and geological resources.

19 And not necessarily in that order. We
20 can proceed as best suits the parties and the
21 Committee.

22 On the topic of geology the parties have
23 agreed that the subtopic of wastewater injection
24 wells will not be discussed under geology. CURE's
25 witness, Jeff Bachhuber, instead will discuss

1 wastewater injection wells under the testimony
2 provided in the soil and resources portion of the
3 evidentiary hearings on March 7, 2000.

4 Witnesses will testify under oath or
5 affirmation. During the hearings the party
6 sponsoring the witness shall establish the
7 witness' qualifications, and ask the witness to
8 summarize the prepared testimony.

9 Relevant exhibits should be offered into
10 evidence at that time. At the conclusion of a
11 witness' direct testimony the sponsoring party
12 should move in all relevant exhibits to be
13 received into evidence.

14 The Committee will next provide the
15 other parties an opportunity for cross-examination
16 followed by redirect and recross-examination as
17 appropriate. Multiple witnesses may testify as a
18 panel. The Committee may also question the
19 witnesses.

20 At the conclusion of each topic area we
21 will invite members of the public to offer unsworn
22 public comment. Public comment is not testimony,
23 and the Committee finding cannot be based solely
24 on such comments. However, public comment may be
25 used to explain the evidence in the record.

1 Any questions so far?

2 I have prepared an exhibit list which
3 I've made available to the parties. I have
4 included space thereon for the parties to track or
5 change the list as appropriate. And we've already
6 agreed that the final staff analysis will be
7 marked for identification as exhibit 19.

8 Are there any other housekeeping matters
9 that the parties would like to take up at this
10 time?

11 MS. REYNOLDS: Yes, I have a couple of
12 issues. We were wondering when the transcripts
13 will be available for the phase one issues. The
14 briefing dates are fairly soon. The opening
15 briefs are due on February 11th, and we're
16 concerned that there may not be enough time.
17 Usually we have at least ten days to have the
18 transcripts available before the briefs are due.
19 So we're a little concerned with hearings ending
20 on the 27th, possibly the 1st, about the
21 turnaround time for that.

22 HEARING OFFICER WILLIAMS: Well, you'll
23 get the ten days.

24 MS. REYNOLDS: Okay.

25 HEARING OFFICER WILLIAMS: We can just

1 agree to that. So, we'll just have the briefs due
2 ten days from the time that you receive the
3 transcripts, okay?

4 MS. REYNOLDS: Okay. And then the -- I
5 guess the reply briefs would be the same amount of
6 time?

7 HEARING OFFICER WILLIAMS: Yes, yes,
8 you'll get the ten days. I think that's probably
9 a good idea.

10 MS. REYNOLDS: The other issue I wanted
11 to raise, and I've mentioned this to all the
12 parties, we, in an attempt to satisfy the
13 Committee's request to minimize duplication with
14 the Sunrise hearings, we would like to make a
15 motion to have the Committee take official notice
16 of some portions of the Sunrise transcript, and
17 some documents from Sunrise.

18 We're waiting for the transcripts to
19 come out. Hopefully they'll be out tomorrow. We
20 will be able to file a fax, file a motion
21 identifying under each topic area which things we
22 would like the Committee to take official notice
23 of. Again, that's contingent on the transcripts
24 coming out.

25 So we will try to fax file that tomorrow

1 and the parties can take a look at it. And I
2 guess we can deal with that at the hearings on
3 Tuesday, if anyone has any objections at that
4 time, or people want to file things in writing
5 between Friday and Tuesday, we can do that.

6 Is that something the Committee might be
7 amenable to?

8 PRESIDING MEMBER ROHY: Yes.

9 MS. REYNOLDS: Okay. Thank you.

10 MS. REYNOLDS: When I say yes, we would
11 be amenable to looking at it and considering it.

12 MS. REYNOLDS: Okay.

13 (Pause.)

14 HEARING OFFICER WILLIAMS: Okay, I guess
15 if there are no other housekeeping matters we'll
16 proceed with the applicant's opening statement.
17 And if you like, you may discuss procedural
18 issues, or you may simply proceed with your
19 substantive presentation.

20 And we're going to proceed first with
21 the project description, and then I guess we will
22 take up matters.

23 MS. LUCKHARDT: Right. We are prepared
24 to proceed with the project description and all of
25 the other subject areas but cultural resources.

1 Our cultural resource witness will not be here
2 until 10:30, and so we cannot proceed with that
3 until that time.

4 With me here today on the subject area
5 of project description are Mr. Joe Rowley and Mr.
6 Dennis Champion. They both need to be sworn.
7 Whereupon,

8 JOSEPH ROWLEY and DENNIS CHAMPION
9 were called as witnesses herein and after first
10 being duly sworn, were examined and testified as
11 follows:

12 MS. LUCKHARDT: Okay, I'll start with
13 Mr. Joe Rowley.

14 DIRECT EXAMINATION

15 BY MS. LUCKHARDT:

16 Q Will you please state your name, your
17 occupation and your address for the record.

18 A My name is Joseph H. Rowley. My
19 occupation is Director of Project Development for
20 Semptra Energy Resources. I also hold the title of
21 Vice President of Elk Hills Power. My business
22 address is 101 Ash Street, San Diego, California
23 92101.

24 Q Can you please describe your educational
25 background for the record?

1 A My educational background is an
2 engineer. I have a degree in chemical engineering
3 from Brigham Young University, 1980. I'm
4 registered as a professional engineer, mechanical
5 engineering in the State of California.

6 I'm currently responsible for project
7 development for Semptra Energy Resources in the
8 western United States, and specifically for the
9 Elk Hills Power Project.

10 Previous to working for Semptra Energy I
11 worked for the Imperial Irrigation District and
12 was responsible for all of their power generation
13 facilities including coal-, hydro-, and natural
14 gas-fired facilities.

15 And while I was there I was project
16 manager of the El Centro Unit II Repowering which
17 was licensed before the California Energy
18 Commission through the small power plant exemption
19 process.

20 And prior to that I worked for San Diego
21 Gas and Electric Company. Worked in planning
22 processes before the Energy Commission, as well as
23 siting processes.

24 Q And can you explain the purpose of your
25 testimony today?

1 A The purpose of my testimony is to
2 sponsor the project description and a number of
3 exhibits.

4 Q And could you name those exhibits for
5 us?

6 A Those would be in exhibit 1, section 3
7 of the AFC; and exhibit 2, responses to staff data
8 requests number 1 through 8 regarding air quality;
9 number 10, regarding the ammonia storage and
10 handling system; and that's all the exhibits I'm
11 sponsoring for this portion of my testimony.

12 Q And do you have any corrections to make
13 to that testimony at this time?

14 A No. I should also mention that I'm
15 sponsoring those jointly with Mr. Dennis Champion.

16 Q And do you adopt those portions of your
17 testimony as your true and sworn testimony in this
18 proceeding?

19 A Yes.

20 MS. LUCKHARDT: Okay, Mr. Champion.

21 DIRECT EXAMINATION

22 BY MS. LUCKHARDT:

23 Q Would you please state your name and
24 your occupation for the record?

25 HEARING OFFICER WILLIAMS: Excuse me, to

1 save time, we were thinking that if the parties
2 agree, we could just stipulate to the
3 qualifications. Those have been filed.

4 MS. LUCKHARDT: Yes, they have.

5 HEARING OFFICER WILLIAMS: So, I don't
6 see any reason for us to have you go through it.

7 MS. LUCKHARDT: No problem. In these
8 subject areas that are noncontroversial we have no
9 problem doing that. In the more controversial
10 areas we request the ability to have them explain
11 any special experience and we will not have them
12 repeat the material that we have already filed.

13 HEARING OFFICER WILLIAMS: Okay. Fine.

14 MS. LUCKHARDT: If that would be
15 acceptable, we would like to do that.

16 HEARING OFFICER WILLIAMS: Seeing no
17 objection, that's the way we'll do it.

18 MS. LUCKHARDT: Okay.

19 BY MS. LUCKHARDT:

20 Q Please state your name and your -- you
21 still have to state your name.

22 (Laughter.)

23 MR. CHAMPION: My name is Dennis
24 Champion. And I'm the Project Permitting Manager
25 for Elk Hills Power.

1 I also work for Occidental of Elk Hills
2 as an Air Quality Engineer.

3 BY MS. LUCKHARDT:

4 Q And are you sponsoring any exhibits
5 today with your testimony?

6 A Exhibit 1, section 3, project
7 description and location, along with Joe Rowley.

8 Q And do you adopt that exhibit as your
9 true and sworn testimony in this proceeding?

10 A Yes, I do.

11 Q Mr. Rowley, can you summarize --

12 MS. LUCKHARDT: Would you like a
13 summary?

14 HEARING OFFICER WILLIAMS: Yes.

15 MS. LUCKHARDT: Okay, great.

16 BY MS. LUCKHARDT:

17 Q Would you please summarize the
18 testimony?

19 MR. ROWLEY: The purpose of the Elk
20 Hills Power Project is to use locally produced
21 natural gas from the Elk Hills Oil and Gas Field
22 to produce power for the California energy and
23 ancillary service markets.

24 The project's located about 25 miles
25 west of Bakersfield, roughly in the center of the

1 74-square-mile Elk Hills Oil and Gas Field.

2 Also associated with the project are a
3 transmission line that would be 8.6 to 9 miles,
4 depending on which transmission line alternative.

5 Also a 9.8 mile water supply pipeline. A
6 wastewater pipeline that's about 4.4 miles in
7 length. And a 2500 foot natural gas pipeline.

8 The project itself, the generation
9 facility consists of two combustion turbines, two
10 heat recovery steam generators, one steam turbine,
11 a cooling tower and ancillary equipment.

12 MS. LUCKHARDT: The witnesses are
13 available for any questions.

14 MS. WILLIS: We have no questions.

15 MS. REYNOLDS: The only questions we
16 have related to project description we will deal
17 with in the ammonia aspect.

18 HEARING OFFICER WILLIAMS: All right,
19 move right along.

20 MS. LUCKHARDT: We need to move the
21 exhibits. I'm sorry. We'd move the applicant's
22 exhibits in the area of project description, offer
23 those into evidence at this time.

24 HEARING OFFICER WILLIAMS: Do you have
25 copies.

1 MS. LUCKHARDT: Separate copies of the
2 AFC and the data requests, I do not. In the past
3 I have not made full copies of those documents due
4 to the size of the information we had previously
5 presented.

6 If you would prefer that we do that in
7 the future, we can do that.

8 HEARING OFFICER WILLIAMS: It's not
9 necessary. As long as the exhibits are precisely
10 the same ones as indicated in the filed testimony.
11 If there are any changes, please bring that to our
12 attention.

13 MS. LUCKHARDT: Absolutely, we will do
14 that.

15 HEARING OFFICER WILLIAMS: All right.

16 MS. WILLIS: Staff would like to call
17 Marc Pryor.
18 Whereupon,

19 MARC PRYOR
20 was called as a witness herein and after first
21 being duly sworn, was examined and testified as
22 follows:

23 DIRECT EXAMINATION

24 BY MS. WILLIS:

25 Q Now could you please state your name for

1 the record?

2 A My name is Marc Pryor.

3 Q Did you prepare the section of the FSA
4 entitled project description?

5 A Yes, I did.

6 Q The FSA has been identified as exhibit
7 19. Did you include in exhibit 19 a statement of
8 your qualifications?

9 A Yes.

10 Q Do you have your testimony in front of
11 you today?

12 A Yes, I do.

13 Q Do you have any changes?

14 A No, I do not.

15 Q And could you please provide a brief
16 summary?

17 A Yes. Mr. Rowley did provide a good
18 summary. I would like to add some other things.

19 The Elk Hills Power Plant site would be
20 about nine miles south of the unincorporated
21 community of Buttonwillow, and nine miles north of
22 the City of Taft.

23 The site is currently occupied by out-
24 of-service tanks and related equipment formerly
25 used for storage and loading of propane, butane

1 and natural gas.

2 The oil field is bisected by the public
3 Elk Hills Road that runs north and south between
4 Buttonwillow and Taft. Numerous petroleum
5 recovery and storage facilities, electric and
6 petroleum, transmission lines and access roads
7 characterize the area.

8 Despite what's in the AFC in a couple of
9 the figures the Elk Hills Power Plant is not a
10 cogeneration project. I want to make that clear.
11 Because the steam from the HRSGs or heat recovery
12 steam generators will be used for the generation
13 of power by the steam turbine generator, not for
14 oil field production.

15 Transmission line options. There are
16 two, with one variation on one of them. Routes 1A
17 and 1B and the route 1B variation. 1A would
18 terminate at a new substation near the town of
19 Tupman. 1B and its variation would interconnect
20 at the Midway substation near Buttonwillow.

21 The applicant expects to begin
22 construction no earlier than June 2000.
23 Commercial operation by the summer of 2001. And
24 the peak workforce will be approximately 240 to
25 350 individuals, and about 20 permanent facility

1 operations personnel.

2 That is my testimony summary.

3 Q In addition to the project description
4 are you also sponsoring other sections to the FSA?

5 A Yes, I'm sponsoring the executive
6 summary, the introduction, and that's it.

7 MS. WILLIS: At this time we'd like to
8 move those sections, the project description,
9 introduction and executive summary into the
10 record.

11 HEARING OFFICER WILLIAMS: Any
12 objections? Those will be so moved.

13 MS. WILLIS: This witness is available
14 for cross-examination.

15 MS. LUCKHARDT: We have no questions.

16 MS. REYNOLDS: No questions.

17 HEARING OFFICER WILLIAMS: CURE, do you
18 have any questions of this witness?

19 MS. REYNOLDS: No.

20 HEARING OFFICER WILLIAMS: Excuse me,
21 counsel, the exhibits that we just moved into the
22 record, they're not going to be separately
23 identified?

24 MS. WILLIS: They're all part of exhibit
25 19.

1 HEARING OFFICER WILLIAMS: Okay, I just
2 wanted to make that clear.

3 Okay, let's move on to the next --

4 MS. LUCKHARDT: Next subject area.

5 HEARING OFFICER WILLIAMS: -- next
6 topic.

7 MS. LUCKHARDT: Okay, I need to call
8 Madan Bhandari, and he needs to be sworn.

9 Whereupon,

10 MADAN BHANDARI
11 was called as a witness herein and after first
12 being duly sworn, was examined and testified as
13 follows:

14 MS. LUCKHARDT: Our witnesses in the
15 area of facility design will include Mr. Joe
16 Rowley and Mr. Madan Bhandari.

17 DIRECT EXAMINATION

18 BY MS. LUCKHARDT:

19 Q Mr. Rowley, would you please state your
20 name for the record.

21 A Joseph H. Rowley with Sempra Energy
22 Resources.

23 MS. LUCKHARDT: Mr. Rowley has prefiled
24 his qualifications and also previously stated them
25 for the record.

1 BY MS. LUCKHARDT:

2 Q Mr. Rowley, please identify the exhibits
3 you're sponsoring on facility design.

4 A I'm sponsoring, along with Madan
5 Bhandari, section 3 of the AFC, section 4, section
6 6.3, section 6.4 and appendices A through G.

7 Q Are you sponsoring any other exhibits?

8 A Those are all associated with exhibit 1.
9 And then also associated with exhibit 2 is the
10 response to staff data request number 17.

11 Q Thank you. Are there any corrections
12 you need to make to your testimony at this time?

13 A No.

14 Q And is that your true and sworn
15 testimony in this proceeding?

16 A Yes, it is.

17 DIRECT EXAMINATION

18 BY MS. LUCKHARDT:

19 Q Mr. Bhandari, can you state your name
20 and position for the record?

21 A My name is Madan Bhandari. I'm a Senior
22 Facilities Engineer with Occidental of Elk Hills.

23 Q Thank you. And can you please
24 identify --

25 MS. LUCKHARDT: Mr. Bhandari's

1 qualifications are already included in his
2 prefiled testimony.

3 BY MS. LUCKHARDT:

4 Q Can you please identify the documents
5 that you are sponsoring?

6 A Along with Joseph Rowley I'm sponsoring
7 section 3, facilities description and location;
8 section 4, safety and reliability; section 6.3,
9 project engineering, design and construction;
10 section 6.4, project design and operation;
11 appendices A through G.

12 Q Thank you. And do you have any
13 corrections to make to your testimony at this
14 time?

15 A No.

16 Q And are the exhibits you have just
17 identified your true and sworn testimony in this
18 proceeding?

19 A Yes, I do.

20 Q Thank you.

21 MS. LUCKHARDT: Mr. Rowley, can you
22 summarize the testimony in this area?

23 MR. ROWLEY: Certainly. The project
24 will be designed in accordance with all applicable
25 laws, ordinances, regulations and standards,

1 including the CBC.

2 The design criteria for the project are
3 detailed in appendices A through G of the AFC.
4 And we are in agreement with the proposed
5 conditions of certification that are contained in
6 the final staff assessment.

7 That concludes my summary.

8 MS. LUCKHARDT: Mr. Bhandari, are you
9 also sponsoring response to staff data request
10 number 18?

11 MR. BHANDARI: 17 you mean?

12 MS. LUCKHARDT: 17?

13 MR. BHANDARI: Yes.

14 MS. LUCKHARDT: Okay, thank you.

15 MR. BHANDARI: Yes, 17, yes, I do.

16 MS. LUCKHARDT: At this time I would
17 like to move the applicant's exhibits into the
18 record.

19 HEARING OFFICER WILLIAMS: Any
20 objections?

21 MS. WILLIS: No.

22 MS. REYNOLDS: No.

23 HEARING OFFICER WILLIAMS: So moved.

24 MS. LUCKHARDT: The witnesses are
25 available for cross.

1 MS. WILLIS: We have no questions.

2 MS. REYNOLDS: No questions.

3 MS. WILLIS: At this time we'd like to
4 call Steve Baker and Kisabuli.

5 Whereupon,

6 STEVE BAKER and M. KISABULI
7 were called as witnesses herein and after first
8 being duly sworn, were examined and testified as
9 follows:

10 DIRECT EXAMINATION

11 BY MS. WILLIS:

12 Q Could you each please state your name
13 for the record.

14 MR. KISABULI: My name is Kisabuli.

15 MR. BAKER: My name is Steve Baker.

16 MS. WILLIS: Did you prepare or co-
17 prepare the section of the final staff assessment
18 entitled facility design?

19 MR. KISABULI: Yes.

20 MR. BAKER: Yes.

21 MS. WILLIS: Did you include in exhibit
22 19 a statement of your qualifications?

23 MR. KISABULI: Yes.

24 MR. BAKER: Yes.

25 MS. WILLIS: And do you have any changes

1 or corrections to your testimony today?

2 MR. BAKER: No.

3 MR. KISABULI: No.

4 MS. WILLIS: Do the opinions contained
5 in your testimony represent your best professional
6 judgment?

7 MR. BAKER: Yes.

8 MR. KISABULI: Yes.

9 MS. WILLIS: And could you please
10 provide a brief summary?

11 MR. KISABULI: Facility design is a
12 combination of four technical areas, and those are
13 civil, structural, mechanical and electrical
14 engineering.

15 When the application is filed it's
16 usually at a preliminary of conception stage. And
17 therefore we do not expect detailed design type
18 information.

19 So, in our analysis we look at four main
20 areas, or four topics. One is we try to verify
21 whether all the laws, ordinances, regulations and
22 standards have been identified. And we also try
23 to find out whether the project and ancillary
24 facilities have been defined in sufficient detail
25 so we can understand the project.

1 And number three, we try to define
2 whether there are any special design features that
3 need to be considered in the final design of the
4 project. And the final item is we establish
5 conditions of certification to insure that the
6 project can be designed and constructed to apply
7 with all the applicable LORS.

8 This project site is located in seismic
9 zone four, and this is the highest seismic zone in
10 the country. Under compliance monitoring we have
11 developed several conditions of certification, and
12 these conditions insure that the project can be
13 designed and constructed to meet all the design
14 requirements of the California Building Code, and
15 any other general design standards that are
16 required for the project.

17 We had five conclusions and three
18 recommendations. We concluded that this project
19 can be designed to meet all the applicable design
20 laws, ordinances, regulations and standards. We
21 evaluated the AFC and the project LORS and design
22 criteria, and we concluded that the design and
23 construction can meet all the applicable laws that
24 we have identified.

25 And the conditions of certification we

1 have proposed will insure that the project can be
2 designed and constructed to meet all the
3 applicable LORS. And that we have recommended
4 that a chief building official review the design
5 and construction of the project.

6 And that under the decommissioning,
7 although we do not know the exact conditions under
8 which this project would be decommissioned, but we
9 have developed a condition of certification that
10 if it is followed, that we feel the
11 decommissioning can be done according to the
12 existing LORS at the time.

13 And we had three recommendations. First
14 recommendation is that the conditions of
15 certification that the Energy Commission Staff has
16 adopted as proposed shall be adopted by the
17 Commission -- the project can be designed and
18 built to the 1998 California Building Code, or any
19 successor standards. And the chief building
20 official review the design, construction, and
21 perform field inspection during construction.

22 That concludes my summary.

23 MS. WILLIS: At this time I'd like to
24 move the facility design section of exhibit 19
25 into the record. And this witness is available

1 for cross-examination.

2 HEARING OFFICER WILLIAMS: Any
3 objection?

4 MS. REYNOLDS: No.

5 MS. LUCKHARDT: No.

6 HEARING OFFICER WILLIAMS: So moved.

7 EXAMINATION

8 BY HEARING OFFICER WILLIAMS:

9 Q Who is the chief building official for
10 the Elk Hills project?

11 MR. KISABULI: It will be Kern County.

12 HEARING OFFICER WILLIAMS: Have you
13 identified any particular individual?

14 MR. KISABULI: Yes, we have. We have
15 talked with them on other projects. And we did
16 identify that this was one of the projects that
17 they would be responsible for.

18 HEARING OFFICER WILLIAMS: And when you
19 say other projects, which do you have --

20 MR. KISABULI: LaPaloma and Sunrise.

21 HEARING OFFICER WILLIAMS: Okay.

22 MS. LUCKHARDT: We have no questions.

23 MS. REYNOLDS: No questions.

24 HEARING OFFICER WILLIAMS: I believe we
25 can move on.

1 MS. LUCKHARDT: The next subject area is
2 compliance monitoring and closure. Applicant's
3 witness in this case is Mr. Joe Rowley. Mr.
4 Rowley has previously stated his name and
5 qualifications for the record.

6 BY MS. LUCKHARDT:

7 Q I would now ask Mr. Rowley to identify
8 the exhibits associated with compliance monitoring
9 and closure that he is sponsoring.

10 A I'm sponsoring section 3.10 of the AFC
11 facility closure, which is a portion of exhibit 1.

12 Q And do you have any corrections to make
13 to your testimony at this time?

14 A No.

15 Q And is your testimony your true and
16 sworn testimony?

17 A Yes.

18 Q Can you please provide a summary of your
19 testimony for the record?

20 A The closure plans are summarized in
21 section 10 of the AFC. We will close the facility
22 in accordance with all applicable LORS under
23 whatever circumstances closure presents itself in.

24 The closure provisions in the final
25 staff assessment we believe are consistent with

1 the section 3.10 of the AFC. And therefore we
2 agree with those provisions.

3 We understand and agree with the
4 compliance monitoring provisions contained in the
5 FSA.

6 MS. LUCKHARDT: At this time we would
7 like to move applicant's exhibits on compliance
8 monitoring and closure into the record.

9 HEARING OFFICER WILLIAMS: Any
10 objections?

11 MS. WILLIS: No.

12 MS. REYNOLDS: No.

13 HEARING OFFICER WILLIAMS: So moved.

14 MS. LUCKHARDT: Mr. Rowley is now
15 available for any cross.

16 MS. WILLIS: No questions.

17 MS. REYNOLDS: We have no questions.

18 HEARING OFFICER WILLIAMS: Staff.

19 MS. WILLIS: At this time we'd like to
20 call Nancy Tronaas. And she'll need to be sworn
21 in.

22 Whereupon,

23 NANCY TRONAAS

24 was called as a witness herein and after first
25 being duly sworn, was examined and testified as

1 follows:

2 DIRECT EXAMINATION

3 BY MS. WILLIS:

4 Q Could you please state your name for the
5 record?

6 A My name is Nancy Tronaas.

7 Q And did you prepare the section of the
8 FSA, exhibit 19, entitled compliance monitoring
9 and closure?

10 A I did.

11 Q Do you have any changes to your
12 testimony today?

13 A No.

14 Q Did you include in exhibit 19 a
15 statement of your qualifications?

16 A Yes.

17 Q And do the opinions contained in your
18 testimony represent your best professional
19 judgment?

20 A They do.

21 Q Would you please provide a brief
22 summary.

23 A Okay. The general conditions define the
24 roles and responsibilities of the Energy
25 Commission's compliance project manager, the

1 project owner and delegate agencies to insure that
2 the project is constructed, operated and closed as
3 specified in the Commission's decision.

4 The general conditions establish the
5 compliance reporting and verification process, as
6 well as procedures to resolve noncompliance issues
7 and complaints.

8 Finally, the general conditions
9 establish requirements for closure of the power
10 plant, including planned and unexpected permanent
11 or temporary closures, so that the public health,
12 safety and environment are protected from adverse
13 impacts due to closure.

14 And that is my summary.

15 MS. WILLIS: At this time I'd like to
16 move the compliance monitoring and closure section
17 of the FSA, exhibit 19, into the record.

18 HEARING OFFICER WILLIAMS: Any
19 objections?

20 MS. REYNOLDS: No.

21 MS. WILLIS: And this witness is
22 available for cross-examination.

23 MS. LUCKHARDT: We have no questions.

24 HEARING OFFICER WILLIAMS: Those
25 exhibits will be -- excuse me -- those exhibits

1 will be moved into the record.

2 Any cross?

3 MS. LUCKHARDT: We have no questions.

4 MS. REYNOLDS: No cross.

5 MS. LUCKHARDT: The next subject area is
6 power plant reliability. Applicant's witness in
7 the area of power plant reliability is again Mr.
8 Joe Rowley. He has stated his name and
9 qualifications previously for the record.

10 DIRECT EXAMINATION

11 BY MS. LUCKHARDT:

12 Q I would ask at this time that Mr. Rowley
13 identify his exhibits in the area of power plant
14 reliability.

15 A Again, exhibit 1, I'm sponsoring section
16 4 of the AFC, safety and reliability. Also
17 section 6.4.1 and 6.4.4, the laws, ordinances,
18 regulations and standards.

19 Q And do you have any corrections to make
20 to your testimony at this time?

21 A No.

22 Q And do those portions of exhibit 1
23 identified above stand as your true and sworn
24 testimony in this proceeding?

25 A Yes.

1 Q Could you please summarize your
2 testimony?

3 A The AFC summarizes a preventative
4 maintenance program that really begins when the --
5 actually it's already begun during the
6 specification and preliminary design phase of the
7 project, and will continue throughout that phase,
8 throughout procurement, engineering and
9 construction, and throughout the operational phase
10 of the project.

11 This preventative maintenance and
12 reliability program will insure that the project
13 operates reliably as expected. And, of course,
14 it's in our economic interest that the project
15 performs.

16 And that concludes my summary.

17 MS. LUCKHARDT: At this time we would
18 like to move applicant's exhibits on power plant
19 reliability into the record.

20 HEARING OFFICER WILLIAMS: Any
21 objection?

22 MS. WILLIS: None.

23 MS. REYNOLDS: No.

24 HEARING OFFICER WILLIAMS: So moved.

25 MS. LUCKHARDT: This witness is

1 available for cross.

2 MS. REYNOLDS: No questions.

3 MS. WILLIS: No questions.

4 HEARING OFFICER WILLIAMS: Okay, we'll
5 move to staff.

6 MS. WILLIS: At this time I'd like to
7 recall Steve Baker, and he's already been sworn
8 in.

9 DIRECT EXAMINATION

10 BY MS. WILLIS:

11 Q Did you prepare the section of the FSA
12 entitled power plant reliability?

13 A Yes, I did.

14 Q Did you include in exhibit 19, a
15 statement of your qualifications?

16 A Yes.

17 Q Do you have any changes or corrections
18 today to your testimony?

19 A No.

20 Q Do the opinions contained in your
21 testimony represent your best professional
22 judgment?

23 A Yes, they do.

24 Q And could you please provide a brief
25 summary?

1 A There are no laws, ordinances,
2 regulations or standards specifying power plant
3 reliability criteria. However, the Energy
4 Commission must make findings regarding reliable
5 operation of the project.

6 Staff regards the power plant as
7 acceptably reliable if it will not degrade the
8 reliability of the power system to which it's
9 connected. Staff assumes this to be the case if
10 the project will exhibit reliability at least
11 equal to that of other power plants on the system.

12 The applicant proposes to design,
13 construct and operate a power plant using the
14 norms and standards of reliability common to the
15 electric power industry, particularly in
16 California. They will design the plant under a
17 typical quality assurance plan. They will use
18 redundant equipment. They will use a typical
19 maintenance program. And they will provide the
20 plant with reliable sources of fuel and cooling
21 water.

22 Therefore staff can conclude that the
23 plant will be as reliable as any other plant in
24 the electric system, and therefore will not cause
25 any degradation in reliability of the electric

1 power system.

2 Q Does that conclude your testimony?

3 A Yes, it does.

4 MS. WILLIS: At this time I'd like to
5 move the section of the FSA entitled power plant
6 reliability into the record.

7 HEARING OFFICER WILLIAMS: Any
8 objections?

9 MS. REYNOLDS: No.

10 HEARING OFFICER WILLIAMS: So moved.

11 MS. WILLIS: And Mr. Baker is available
12 for cross-examination.

13 MS. LUCKHARDT: No questions.

14 MS. REYNOLDS: No questions.

15 HEARING OFFICER WILLIAMS: Seeing no
16 questions, then we can move on to the next topic.

17 MS. LUCKHARDT: The next topic is power
18 plant efficiency. The applicant's witness in the
19 area of power plant efficiency is Mr. Joseph
20 Rowley. He has previously stated his name and
21 qualifications for the record.

22 DIRECT EXAMINATION

23 BY MS. LUCKHARDT:

24 Q I would ask at this time that Mr. Rowley
25 identify the exhibits that constitute his

1 testimony.

2 A In exhibit 1 I'm sponsoring section 3
3 and section 4 of the AFC.

4 Q And do you have any corrections to your
5 testimony at this time?

6 A No.

7 Q And do the portions of the exhibits you
8 have identified -- do you adopt the portions of
9 the exhibits you've identified above as your true
10 and sworn testimony in this proceeding?

11 A Yes, I do.

12 Q Could you please summarize your
13 testimony?

14 A The technology and the thermodynamic
15 cycle that were selected for this project were
16 selected to maximize efficiency given the
17 anticipated duty cycle of the project. And that
18 thermodynamic cycle is detailed in the AFC,
19 particularly in section 3.4 and technology
20 selection in section 3.11.

21 That concludes my summary.

22 MS. LUCKHARDT: At this time we would
23 like to move applicant's testimony in the area of
24 power plant efficiency into the record.

25 HEARING OFFICER WILLIAMS: Any objection?

1 MS. REYNOLDS: No.

2 MS. WILLIS: No objections.

3 HEARING OFFICER WILLIAMS: So moved.

4 MS. LUCKHARDT: Mr. Rowley is available
5 and open for cross.

6 MS. REYNOLDS: No questions.

7 MS. WILLIS: Staff has no questions.

8 HEARING OFFICER WILLIAMS: Okay, we'll
9 proceed with staff.

10 MS. WILLIS: Staff would like to recall
11 Mr. Steve Baker. Mr. Baker has been previously
12 sworn and has stated his name for the record.

13 PRESIDING MEMBER ROHY: Excuse me.
14 Could everyone speak up a bit? I know I'm in the
15 back of the room. It's almost impossible to hear
16 with this air conditioning system going on here.

17 DIRECT EXAMINATION

18 BY MS. WILLIS:

19 Q Mr. Baker, did you prepare the section
20 of the FSA entitled power plant efficiency?

21 A Yes.

22 Q Do you have any changes or corrections
23 to your testimony today?

24 A No.

25 Q And do the opinions contained in your

1 testimony represent your best professional
2 judgment?

3 A Yes, they do.

4 Q Could you please provide a summary?

5 A For the topic of efficiency, staff
6 analyzes the project under the California
7 Environmental Quality Act to determine if it will
8 likely present significant adverse impacts on
9 energy resources.

10 Staff assumes there will be no adverse
11 impacts on energy resources if the project is at
12 least as efficient as any alternatives.

13 In the case of the Elk Hills project,
14 the applicant proposes to use some of the most
15 efficient technology available on the market
16 today. There is really nothing more efficient
17 available.

18 Therefore, staff concludes there will be
19 no adverse impacts on efficiency or energy
20 resources.

21 Q Does that conclude your testimony?

22 A Yes, it does.

23 MS. WILLIS: At this time staff would
24 like to move the section entitled power plant
25 efficiency of the FSA into the record.

1 HEARING OFFICER WILLIAMS: Any
2 objections?

3 MS. LUCKHARDT: No objections.

4 MS. REYNOLDS: No.

5 HEARING OFFICER WILLIAMS: So moved.

6 MS. WILLIS: And Mr. Baker is available
7 for cross-examination.

8 MS. LUCKHARDT: We have no questions.

9 MS. REYNOLDS: No questions.

10 HEARING OFFICER WILLIAMS: Okay. I
11 think while I'm thinking about it the need
12 conformance part of the final staff analysis, can
13 we stipulate that that will come in as part of the
14 final staff analysis? It's no longer required,
15 but --

16 MS. LUCKHARDT: Yes, we can.

17 HEARING OFFICER WILLIAMS: Okay, so
18 stipulated?

19 MS. LUCKHARDT: Yes.

20 MS. WILLIS: Thank you.

21 MS. LUCKHARDT: The next subject area is
22 visual resources, and we need to change witnesses.
23 We need to call Mr. Tom Priestly, and he needs to
24 be sworn.
25 Whereupon,

1 THOMAS PRIESTLY
2 was called as a witness herein and after first
3 being duly sworn, was examined and testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MS. LUCKHARDT:

7 Q Mr. Priestly, would you please state
8 your name and title for the record?

9 A Yeah, my name is Thomas Priestly, and my
10 title is Senior Environmental Planner for Harza
11 Engineering Company.

12 Q Mr. Priestly's qualifications have
13 previously been filed. Therefore, I ask at this
14 point if Mr. Priestly would please identify the
15 exhibits which include his testimony.

16 A Yes, I am sponsoring AFC section 5.10,
17 visual resources, and section 6.5.10 visual
18 resources LORS. And exhibit 2, responses to staff
19 data request numbers 22 through 27. And I am
20 sponsoring attachment A.

21 Q And do you have any corrections to make
22 to your testimony at this time?

23 A Yes, I do. The response to data request
24 number 25 indicates that the wastewater line will
25 be installed on sleepers spaced at intervals of

1 approximately 25 feet.

2 And I'd like to change that, the above-
3 ground portions of the pipeline will actually be
4 on pipe supports with an interval of approximately
5 50 feet.

6 Q And are you sponsoring any further
7 testimony in this proceeding? Are you sponsoring
8 the attachment A to your prefiled testimony
9 entitled, the testimony of Thomas Priestly
10 regarding visual resources in support of the
11 application for certification for the Elk Hills
12 Power Project?

13 A Yes, I am.

14 Q And are those exhibits your true and
15 sworn testimony in this proceeding?

16 A Yes.

17 MS. LUCKHARDT: We ask that those be
18 entered into the record at this time -- I'm sorry.

19 BY MS. LUCKHARDT:

20 Q Would you please summarize your
21 testimony at this point?

22 A Very briefly stated, visual resources
23 will not be significantly impacted by the Elk
24 Hills Power plant. The power plant is going to be
25 located in the center of the roughly 74-square-

1 mile Elk Hills Oil and Gas Field, and as has
2 already been discussed, that petroleum reserve is
3 generally off limits to the public. The only
4 public access and visibility is from the Elk Hills
5 Road.

6 At its proposed location the power
7 plant, itself, is going to be very consistent with
8 the surrounding land use and landscape conditions
9 and will not significantly alter the character and
10 quality of that landscape.

11 Along transmission line alternative
12 route 1A there are no significant impacts. And
13 along route 1B the visual issue to be discussed is
14 relationship to the residences that are located
15 along that road. And to mitigate any potential
16 effect on those residences we have proposed
17 careful location of towers.

18 And because of the project's consistency
19 with existing conditions in the project vicinity,
20 the impacts on visual resources will not be
21 significant.

22 Q And do you agree with the conditions of
23 certification contained in staff's final staff
24 assessment?

25 A Yes, I do.

1 MS. LUCKHARDT: At this time I would ask
2 that we mark for exhibit, with an exhibit number,
3 applicant's testimony because it has not been
4 marked as an exhibit. It has been filed. It
5 includes attachments, which many of the witnesses
6 will be sponsoring as we go through. And I just
7 realized that we don't have an exhibit number for
8 it, but it has been prefiled on all parties.

9 HEARING OFFICER WILLIAMS: Okay.

10 MS. REYNOLDS: I'm sorry, what in
11 particular are you talking about?

12 MS. LUCKHARDT: It would be our
13 testimony, the attachment A's to the applicant's
14 prefiled testimony, which includes a question-and-
15 answer, as well as an attachment in some subject
16 areas. And that has not been entered as an
17 exhibit or marked as an exhibit at this time.

18 MS. REYNOLDS: So all of your witness'
19 testimony would be one exhibit?

20 MS. LUCKHARDT: Yes, right.

21 MS. REYNOLDS: Okay.

22 HEARING OFFICER WILLIAMS: Dated January
23 12?

24 MS. LUCKHARDT: Yes, and there were a
25 few supplements that followed. I don't have all

1 those dates right in front of me, but that is the
2 main exhibit there.

3 HEARING OFFICER WILLIAMS: That's fine.

4 MS. LUCKHARDT: Would that be 20, then?

5 HEARING OFFICER WILLIAMS: Yes. I want
6 to get this real clear. This exhibit 20 will be
7 all of your witnesses' testimony?

8 MS. LUCKHARDT: Correct. It was the
9 prefiled testimony that came in, the bulk of it
10 came in on the 12th, and we had some corrections
11 that followed.

12 HEARING OFFICER WILLIAMS: Right.

13 MS. LUCKHARDT: Yes.

14 HEARING OFFICER WILLIAMS: So we'll
15 include all that as exhibit 20?

16 MS. LUCKHARDT: Correct.

17 HEARING OFFICER WILLIAMS: Okay, that's
18 fine.

19 Any objections to that?

20 MS. REYNOLDS: I don't have any
21 objections to the marking of it. I just want to
22 make sure that when we're moving it into the
23 record, we're only moving in the portions that are
24 on the table at this time.

25 HEARING OFFICER WILLIAMS: That's right.

1 MS. LUCKHARDT: Absolutely. The
2 portions by subject area being sponsored by each
3 individual witness.

4 HEARING OFFICER WILLIAMS: Yes.

5 MS. REYNOLDS: Okay.

6 HEARING OFFICER WILLIAMS: It will be
7 marked as exhibit 20 for identification, except
8 for those now I guess six topics that we've
9 covered. Those portions have already been
10 admitted.

11 But those portions for the topics that
12 we have not covered will simply be for
13 identification.

14 MS. LUCKHARDT: And I ask that we move
15 applicant's testimony on visual resources into the
16 record at this time.

17 HEARING OFFICER WILLIAMS: Any
18 objections?

19 MS. REYNOLDS: No.

20 MS. WILLIS: None.

21 HEARING OFFICER WILLIAMS: So moved.

22 MS. LUCKHARDT: The witness is available
23 for cross.

24 MS. WILLIS: We have no questions.

25 MS. REYNOLDS: No questions.

1 HEARING OFFICER WILLIAMS: Staff, you
2 may proceed.

3 MS. WILLIS: At this time staff would
4 like to call David Flores.
5 Whereupon,

6 DAVID FLORES
7 was called as a witness herein and after first
8 being duly sworn, was examined and testified as
9 follows:

10 DIRECT EXAMINATION

11 BY MS. WILLIS:

12 Q Mr. Flores, did you prepare the section
13 of the FSA entitled visual resources?

14 A Yes, I did.

15 Q And that has been identified as exhibit
16 19. Did you include with that a statement of your
17 qualifications?

18 A Yes, I did.

19 Q Do you have any changes or corrections
20 to your testimony today?

21 A No, I do not.

22 Q Do the opinions contained in your
23 testimony represent your best professional
24 judgment?

25 A Yes, they do.

1 Q Could you please provide a brief summary
2 of your testimony?

3 A Yes. Staff analyzed the potential
4 visual impacts of the proposed project in
5 compliance with the applicable LORS. As provided
6 in the FSA, staff's analysis is organized as
7 follows:

8 Staff described the methodology that was
9 used in the visual assessment. Staff also
10 described the applicable laws, ordinances,
11 regulations and standards. And staff also
12 assessed the visual setting of the proposed power
13 plant, including linear facility routes.

14 Staff evaluated the visual impacts of
15 the proposed project on the existing five KOPs
16 that were identified in the AFC, and each KOP
17 discussed within the staff's analysis.

18 Staff also evaluated the compliance of
19 the project with the applicable laws, ordinances,
20 regulations and standards. Also evaluated the
21 visible cooling tower plumes characteristics.
22 Also the lighting at the project site, and the
23 potential to cause glare and in fact scatter to
24 the surrounding area.

25 As part of the report staff recommends

1 measures needed to mitigate any potential
2 significant adverse visual impacts of the proposed
3 project, and to achieve compliance with the
4 applicable LORS.

5 In evaluating the five KOPs staff
6 concluded that the project may cause visual
7 impacts in the area of KOP 3, which is the
8 transmission line near the western edge of the
9 community of Tupman. And KOP 5, which is the
10 proposed transmission line along Wasco Way.

11 To reduce these visual impacts to
12 insignificance, staff has recommended mitigation
13 as set forth in the FSA which requires color
14 treatment of the transmission poles. And where
15 the poles are located near residence, that the
16 placement of the poles not be placed directly in
17 front of the residence.

18 As indicated in the report, staff has
19 proposed five conditions of certification. As
20 listed, they are the treatment of proposed plant
21 facilities and the transmission towers and poles.
22 Also nonreflective fencing. Lighting of the
23 proposed power plant facilities with hooded
24 fixtures. Avoidance of the placement of
25 transmission line poles directly in front of

1 residences. And also a landscaping plan as
2 required under the Kern County general plan.

3 That concludes my report.

4 MS. WILLIS: Thank you. At this time
5 staff would like to move the section of the FSA,
6 exhibit 19, visual resources, into the record.

7 HEARING OFFICER WILLIAMS: Any
8 objection?

9 MS. LUCKHARDT: No objection.

10 MS. REYNOLDS: No.

11 HEARING OFFICER WILLIAMS: So moved.

12 MS. WILLIS: And Mr. Flores is available
13 for cross-examination.

14 MS. LUCKHARDT: No questions.

15 MS. REYNOLDS: No questions.

16 HEARING OFFICER WILLIAMS: Thank you.

17 We'll move on to the next topic.

18 MS. LUCKHARDT: The next topic in order
19 is socioeconomic. The applicant calls Mr. Dwight
20 Mudry, and he needs to be sworn.
21 Whereupon,

22 DWIGHT MUDRY
23 was called as a witness herein and after first
24 being duly sworn, was examined and testified as
25 follows:

1 DIRECT EXAMINATION

2 BY MS. LUCKHARDT:

3 Q Mr. Mudry, would you please state your
4 name and title for the record.

5 A Yes, my name is Dwight R. Mudry. I'm a
6 Consulting Scientist with Foster Wheeler
7 Environmental.

8 Q Mr. Mudry's qualifications have been
9 previously filed, so I ask at this time that he
10 identify the portions of the exhibits which he is
11 sponsoring today.

12 A Yes, I'm sponsoring those portions of
13 the AFC dealing with socioeconomics; that's
14 section 5.8, socioeconomics, 5.18.3, which is
15 cumulative impacts on socioeconomics, and section
16 6.5.8 LORS, socioeconomics.

17 Q Are you sponsoring any further testimony
18 in this proceeding?

19 A No.

20 Q Are you sponsoring the attachment A,
21 testimony of Dwight R. Mudry, regarding
22 socioeconomics in support of the application for
23 certification for the Elk Hills Power project?

24 A Yes.

25 Q Do you have any corrections to make to

1 your testimony at this time?

2 A No.

3 Q Was this testimony prepared under your
4 direction?

5 A Yes, it was prepared under my direction.

6 Q And are these exhibits your true and
7 sworn testimony in this proceeding?

8 A Yes.

9 Q Can you please summarize your testimony?

10 A Yes. The AFC provided a review of the
11 local and regional socioeconomic impacts of the
12 power project. It's not anticipated that the
13 project would have any significant impacts on
14 socioeconomic aspects of the project, either
15 locally or regionally.

16 The onsite construction is expected to
17 take about 15 months to complete. And there
18 appears to be a sufficient labor force for the
19 project in and around Kern County.

20 During operation the project will employ
21 about 20 full-time personnel once it's
22 operational; and the increased employment is not
23 expected to cause any substantial impacts.

24 The project will have a positive impact
25 on fiscal resources in the region. And the

1 project will bring both sales tax and property tax
2 revenues to Kern County.

3 MS. LUCKHARDT: At this time we would
4 like to move applicant's exhibits regarding
5 socioeconomics into the record.

6 HEARING OFFICER WILLIAMS: Any
7 objections?

8 MS. REYNOLDS: No.

9 MS. WILLIS: None.

10 HEARING OFFICER WILLIAMS: So moved.

11 MS. LUCKHARDT: The witness is available
12 for cross.

13 MS. WILLIS: No questions.

14 MS. REYNOLDS: No questions.

15 HEARING OFFICER WILLIAMS: Staff, you
16 may proceed.

17 MS. WILLIS: At this time I'd like to
18 call Dr. Joseph Diamond. He will need to be sworn
19 in.

20 Whereupon,

21 JOSEPH DIAMOND
22 was called as a witness herein and after first
23 being duly sworn, was examined and testified as
24 follows:

25 DIRECT EXAMINATION

1 BY MS. WILLIS:

2 Q Dr. Diamond, did you prepare the section
3 of the final staff assessment entitled
4 socioeconomics?

5 A Yes.

6 Q And did you include in that exhibit 19,
7 a statement of your qualifications?

8 A Yes.

9 Q Do you have any changes or corrections
10 to your testimony today?

11 A Yes.

12 Q Could you read those in for the record?

13 A Okay, on page 266, paragraph 2, line 2,
14 should be 44 not 43. And on line 3, 7 --

15 HEARING OFFICER WILLIAMS: Excuse me,
16 could you go over that again more slowly, give
17 everybody a chance to find --

18 DR. DIAMOND: I have a copy of it.

19 HEARING OFFICER WILLIAMS: Oh, you do?
20 Okay.

21 DR. DIAMOND: I'd be glad to give you a
22 copy and read it again.

23 HEARING OFFICER WILLIAMS: Okay, thank
24 you.

25 DR. DIAMOND: Page 266, paragraph 2,

1 line 2, 44 not 43. And line 3, 7 not 12.

2 HEARING OFFICER WILLIAMS: Thank you.

3 DR. DIAMOND: You're welcome.

4 BY MS. WILLIS:

5 Q Do you have any other changes to
6 introduce at this time?

7 A No, I don't.

8 Q Do the opinions contained in your
9 testimony represent your best professional
10 judgment?

11 A Yes.

12 Q And could you please provide a summary?

13 A Yes. The Elk Hills project has a high
14 benefit/cost ratio, and the far impacts are
15 largely or completely mitigated by property taxes.
16 There are substantial short-term benefits from
17 construction and long-term operations. Employment
18 and long-term payment of taxes and fees.

19 Since most of the construction and
20 operations personnel reside in the county, which
21 has substantial unemployment, no adverse impacts
22 are identified for housing, police, emergency
23 services, hospitals, utilities and employment.

24 Environmental justice is not an issue
25 since minority and low-income population for the

1 affected area does not exceed the 50 percent
2 threshold.

3 A socioeconomic impact on education
4 cannot be mitigated due to recent state
5 legislation. A socioeconomic cumulative impact on
6 the Kern County Fire Department has been
7 identified, and a cost-sharing agreement was
8 outlined. Otherwise the cumulative impacts of
9 permitting five power plants are beneficial, with
10 substantial employment and long-term payment of
11 taxes and fees.

12 Q Does that conclude your testimony today?

13 A Yes.

14 MS. WILLIS: At this time staff would
15 like to move the section of the FSA entitled
16 socioeconomics with the added changes into the
17 record.

18 HEARING OFFICER WILLIAMS: That's fine.
19 I think what I'll do is mark this, the change, as
20 exhibit 21. And if you like, make copies
21 available. It's simply his testimony as to the
22 changes he made in the FSA.

23 Yes, I'm moving this into the record as
24 exhibit 21.

25 MS. WILLIS: Dr. Diamond is available

1 for cross-examination.

2 MS. LUCKHARDT: We have no questions.

3 MS. REYNOLDS: No questions.

4 HEARING OFFICER WILLIAMS: Thank you,
5 Dr. Diamond.

6 Okay.

7 MS. LUCKHARDT: At this time I would ask
8 what is the pleasure of the Committee. We could
9 move forward with, I believe, the two subject
10 areas of noise and paleontological and geological
11 resources at this time. Or we could move with
12 cultural resources. I'm not sure if staff's
13 witnesses are available.

14 MS. WILLIS: Staff's witness has not
15 arrived yet. She'll be coming from southern
16 California, and is expected any minute.

17 HEARING OFFICER WILLIAMS: Okay.

18 MS. LUCKHARDT: Shall we proceed then
19 with noise?

20 HEARING OFFICER WILLIAMS: Yes, proceed.

21 MS. LUCKHARDT: Due to weather delays
22 from the East Coast, our testimony, which has been
23 a signed declaration from Mr. Thomas Adams. Mr.
24 Adams is unavailable today. But Mr. Mudry is here
25 as his supervisor to sponsor the testimony.

1 So, Mr. Mudry has previously been sworn
2 and stated his name and his background for the
3 record.

4 DIRECT EXAMINATION

5 BY MS. LUCKHARDT:

6 Q So I will ask Mr. Mudry to please
7 identify the portions of the exhibits which he is
8 sponsoring regarding noise.

9 A Yes, Tom Adams prepared the noise
10 section and is unable to be here today. His
11 sections that he is sponsoring and the signed
12 testimony that was supplied is section 5.9 on
13 noise, section 5.18.3 on cumulative impacts
14 regarding noise, and section 6.5.9 noise LORS.

15 MS. REYNOLDS: Excuse me, my testimony
16 says section 5.18.2. Is this a correction or --

17 DR. MUDRY: Yes.

18 MS. LUCKHARDT: It should be.

19 DR. MUDRY: I checked this morning this
20 section. In cumulative impacts we have a section
21 called 5.18, and that's divided into subsections.
22 5.18.3 actually is the cumulative impact on noise.

23 BY MS. LUCKHARDT:

24 Q And Mr. Mudry, did you direct the
25 preparation of this testimony?

1 A Yes, I did.

2 Q And are the facts contained in this
3 testimony true and correct to the best of your
4 knowledge?

5 A Yes, they are.

6 Q And do the opinions contained therein
7 represent your best professional judgment?

8 A Yes.

9 Q And would you please summarize your
10 noise testimony?

11 A I'll try to summarize the testimony that
12 Tom provided on noise.

13 There are no residences or other noise
14 sensitive receptors within five miles of the
15 project site. The noise impacts were analyzed
16 through modeling for construction and operation.

17 These analyses conclude that the power
18 plant noise emissions will not cause perceptible
19 increases in ambient noise levels at the distant
20 receptors.

21 Power plant noise emissions projected to
22 the nearest sensitive receptor, that is the
23 nearest home which is 5.1 miles away, would be
24 about a 22 dba; whereas the existing minimum
25 background level at any residence is about 34 dba.

1 The transmission line and pipeline
2 construction activity in the vicinity of sensitive
3 receptors will be of short duration, limiting
4 potential noise exposure.

5 Off-site noise impacts associated with
6 construction and operation of the power project
7 are not expected to be significant.

8 Q And, Mr. Mudry, do you adopt the
9 testimony previously provided under Mr. Tom Adams
10 as yours?

11 A Yes.

12 Q As your own?

13 A Yes, I do.

14 MS. LUCKHARDT: At this time I would
15 like to move applicant's testimony under noise
16 into the record.

17 HEARING OFFICER WILLIAMS: Are there any
18 objections?

19 MS. WILLIS: No.

20 MS. REYNOLDS: No.

21 HEARING OFFICER WILLIAMS: So moved.

22 MS. LUCKHARDT: The witness is available
23 for cross.

24 MS. WILLIS: Staff has no questions at
25 this time.

1 MS. REYNOLDS: No questions.

2 HEARING OFFICER WILLIAMS: Staff, you
3 may proceed.

4 MS. WILLIS: We would request a few-
5 minute break.

6 HEARING OFFICER WILLIAMS: We'll be off
7 the record for five minutes.

8 (Brief recess.)

9 HEARING OFFICER WILLIAMS: Back on the
10 record. Applicant, are you ready to proceed?

11 MS. LUCKHARDT: Yes.

12 HEARING OFFICER WILLIAMS: Staff's
13 witness is --

14 MR. KISABULI: I have to put on my eyes
15 to see my own notes. Last time I didn't have my
16 eyes.

17 MS. WILLIS: Staff would like to call
18 Kisabuli. And Mr. Kisabuli has been sworn
19 already.

20 DIRECT EXAMINATION

21 BY MS. WILLIS:

22 Q Did you prepare this section of the
23 final staff assessment entitled noise?

24 A Yes, I did.

25 Q Do you have any changes or corrections

1 to your testimony today?

2 A No, I don't.

3 Q Do the opinions contained in your
4 testimony represent your best professional
5 judgment?

6 A Yes, they do.

7 Q Could you please provide a brief
8 summary?

9 A Yes. The construction and operation of
10 any power plant creates noise. The character and
11 loudness of this noise, the time of day that the
12 noise is created, and the proximity of the
13 facility to any sensitive receptor has combined to
14 determine where the proposed project will meet
15 applicable noise control, ordinances and LORS.

16 Before certifying the project, the
17 Energy Commission must find that the project will
18 not likely be constructed and operated to comply
19 with the federal, state and Kern County noise
20 laws, ordinances, regulations and standards.

21 The project will not present significant
22 adverse noise impacts to the surrounding community
23 or workers at the site.

24 The nearest residence to the power plant
25 site is located about five miles away. The

1 nearest community include Valley Acres, which is
2 about six miles, and the town of McKittrick is
3 located about eight miles away from the power
4 plant site.

5 There are no schools, hospitals or any
6 other sensitive receptors within a two-mile radius
7 of the power plant site. And this is an area that
8 staff has identified outside which the operation
9 or construction of a power plant project will not
10 likely cause any noise impacts.

11 A noise survey conducted in the town of
12 McKittrick showed that the background noise levels
13 range from 34 decibels to about 43 decibels. And
14 this is the noise level under which we'll find out
15 where they'll be at, and impact or not.

16 The construction of the project is
17 expected to take about 16 months with the varying
18 noise levels. Depending on the construction
19 phase, the average noise levels have projected to
20 range between 3 decibels and 15 decibels at any
21 area of residence. This noise level is well below
22 the 34 decibels that were measured as background
23 noise levels.

24 Under construction we also evaluate
25 whether workers will be affected by any noise

1 levels. And in the analysis we verified that
2 workers that will be conducting either a noisy
3 activity, or that will be located to a noisy
4 activity, may be exposed to noise levels varying
5 between 75 decibels and 85 decibels.

6 And the applicant has predicted that
7 these noise levels are likely to cause some
8 impacts, and therefore they have proposed some
9 mitigation.

10 Under operation the analysis shows that
11 the power plant noise levels at the nearest
12 residence will be about 22 decibels. Once again,
13 these noise levels are well below the Kern County
14 noise standard for 40 decibels, and also less than
15 the 34 decibels that were measured as ambient
16 noise levels.

17 During operation of the project the
18 workers may be exposed to noise levels ranging
19 about 70 to 90 decibels. This will depend on the
20 distance where these workers are located in
21 relation to the equipment that is producing the
22 noise level.

23 The applicant has suggested and staff
24 has concurred that these areas will be marked as
25 high noise levels. And hearing protection will be

1 required. And further, that all employees who
2 have the potential to receive these noise levels
3 that may exceed 85 decibels over an eight-hour
4 period will be included in a hearing conservation
5 program. And this program will include all the
6 elements required by OSHA and CalOSHA.

7 Under cumulative impacts, the nearest
8 project to the Elk Hills is the LaPaloma project
9 which is about six and a half miles away. And due
10 to this great distance we determined that there
11 will be no cumulative impacts.

12 We then had a conclusion -- one
13 conclusion and one recommendation to make. And
14 the conclusion is that the Elk Hills project is
15 likely to be constructed and operated to comply
16 with all applicable noise laws, ordinances,
17 regulations and standards.

18 And further, that the Elk Hills project
19 will likely present no significant adverse noise
20 impacts. And the recommendation is that the
21 conditions of certification that is proposed by
22 staff be adopted by the Commission.

23 That concludes my summary.

24 MS. WILLIS: Staff would like to move
25 the section of the FSA exhibit 19 entitled noise

1 into the record.

2 HEARING OFFICER WILLIAMS: Any
3 objection?

4 MS. LUCKHARDT: No objection.

5 MS. REYNOLDS: No.

6 HEARING OFFICER WILLIAMS: So moved.

7 MS. WILLIS: And Mr. Kisabuli is now
8 available for cross-examination.

9 MS. LUCKHARDT: No questions.

10 MS. REYNOLDS: No questions.

11 EXAMINATION

12 BY MR. ELLER:

13 Q Mr. Kisabuli, --

14 A Yes.

15 Q -- you indicated that construction of
16 the plant is expected to take up to 16 months?

17 A Yes.

18 Q In staff's project description they
19 indicate a completion date approximately December
20 of 2001, which would put it on a 12-month
21 schedule. Would compressing the construction from
22 16 to 12 months increase the noise impacts?

23 A It may increase the noise impacts
24 locally within the project site, but unlikely to
25 be of any effect to the community.

1 Q Unlikely or --

2 A Unlikely.

3 Q Thank you.

4 HEARING OFFICER WILLIAMS: Any further
5 questions of this witness?

6 MS. LUCKHARDT: No questions.

7 HEARING OFFICER WILLIAMS: Okay, thank
8 you.

9 The Committee's plan is that we will do
10 geological, paleo resources now, and after we take
11 testimony on that topic, then we will have a lunch
12 break. And then we'll take up with the final
13 topic of cultural resources in the afternoon after
14 the lunch break.

15 MS. LUCKHARDT: Great.

16 HEARING OFFICER WILLIAMS: Okay?

17 MS. LUCKHARDT: All right, then
18 applicant calls Gary Cronk and Bruce Lander, both
19 of whom need to be sworn.

20 Whereupon,

21 GARY CRONK and BRUCE LANDER
22 were called as witnesses herein and after first
23 being duly sworn, were examined and testified as
24 follows:

25

1 MS. LUCKHARDT: Mr. Cronk is applicant's
2 witness for geologic resources.

3 DIRECT EXAMINATION

4 BY MS. LUCKHARDT:

5 Q Mr. Cronk, would you please state your
6 name and your title for the record.

7 A My name is Gary Cronk. I'm an
8 Environmental Engineer with Foster Wheeler
9 Environmental.

10 MS. LUCKHARDT: Mr. Cronk's
11 qualifications have previously been filed.

12 BY MS. LUCKHARDT:

13 Q Mr. Cronk, are you sponsoring those
14 exhibits included in your prefiled testimony?

15 A Yes.

16 Q And are those exhibits your true and
17 sworn testimony in this proceeding?

18 A Yes, they are.

19 Q And do you have any corrections to make
20 to those exhibits?

21 A No.

22 Q And could you please summarize your
23 testimony on geologic resources?

24 A The Elk Hills Power project will not
25 adversely affect geologic resources including

1 mineral resources and geologic recreational
2 resources of commercial or scientific value.

3 Further, the Elk Hills Power project
4 will be designed in conformance with the Uniform
5 Building Code and the California Building Code,
6 seismic zone 4.

7 The plant site and the associated linear
8 facilities are not located near any known geologic
9 hazards including fault rupture zones, landslide
10 areas, subsidence areas, or other geologic
11 hazards.

12 The surface and subsurface geologic
13 units are not unique in this area, and the
14 potential for encountering rare mineral or fossil
15 occurrences are very low.

16 In addition, the proposed power plant
17 has been previously disturbed by oil and gas
18 operations.

19 Q And do you accept the conditions
20 proposed by staff regarding geologic resources?

21 A Yes.

22 MS. LUCKHARDT: And now I'd like to move
23 to Mr. Bruce Lander, who is applicant's witness on
24 paleontological resources.

25 //

1 DIRECT EXAMINATION

2 BY MS. LUCKHARDT:

3 Q Mr. Lander, could you please state your
4 name and title for the record.

5 A My name is Bruce Lander. I'm a Senior
6 Vertebrate Paleontologist with Paleo Environmental
7 Associates.

8 MS. LUCKHARDT: Mr. Lander's
9 qualifications have been previously filed. Mr.
10 Lander's exhibits have also been previously filed.

11 BY MS. LUCKHARDT:

12 Q Are those exhibits your true and sworn
13 testimony in this proceeding?

14 A Yes.

15 Q Do you have any changes to make to your
16 testimony at this time?

17 A No.

18 Q Could you please summarize the
19 applicant's testimony on paleontological
20 resources?

21 A Earth-moving activities associated with
22 the project construction does have a potential for
23 encountering fossil remains in certain areas of
24 the project site.

25 Q And have you proposed conditions to deal

1 with that situation should it occur?

2 A Yes.

3 MS. LUCKHARDT: At this time we'd like
4 to move applicant's testimony on paleontological
5 resources and geological resources into the
6 record.

7 HEARING OFFICER WILLIAMS: Any
8 objections?

9 MS. REYNOLDS: No.

10 MS. WILLIS: No.

11 HEARING OFFICER WILLIAMS: So moved.

12 MS. LUCKHARDT: The witnesses are
13 available for cross.

14 MS. REYNOLDS: No questions.

15 MS. WILLIS: No questions.

16 HEARING OFFICER WILLIAMS: Okay. And
17 I'll note again that the applicant's testimony on
18 the topic of injection wells normally -- well,
19 will be heard on March 7th under the topics of
20 soil and water resources. And that's Mr.
21 Bachhuber?

22 MS. REYNOLDS: That's CURE's witness,
23 actually.

24 HEARING OFFICER WILLIAMS: CURE's
25 witness. I'm sorry.

1 MS. LUCKHARDT: Yes, we have Ms. Donna
2 Thompson who will also be available at that time.

3 HEARING OFFICER WILLIAMS: Okay, so
4 those matters will be discussed on March 7th. I
5 just wanted to clarify that.

6 Okay. Staff.

7 MS. WILLIS: Staff would like to call
8 Bob Anderson.

9 HEARING OFFICER WILLIAMS: Swear the
10 witness, please.
11 Whereupon,

12 ROBERT ANDERSON
13 was called as a witness herein and after first
14 being duly sworn, was examined and testified as
15 follows:

16 DIRECT EXAMINATION

17 BY MS. WILLIS:

18 Q Would you please state your name for the
19 record.

20 A My name's Robert Anderson. I'm an
21 Associate Engineering Geologist with the energy
22 facility siting in the Environmental Protection
23 Division of the California Energy Commission.

24 Q Did you prepare the section of the final
25 staff assessment entitled geological,

1 paleontological resources?

2 A Yes.

3 Q Do you have any changes or corrections
4 to that testimony today?

5 A Yes, I do. Page 279, under the section
6 called liquefaction, hydrocompaction and expansive
7 soils, third paragraph, lines 8 and 10. You'll
8 see the word "elastic"; that should be replaced
9 with "expansive" on line 8. And again at line 9
10 you'll see the word "elastic" again. It should be
11 "expansive" in both cases.

12 That's the only change I have.

13 Q Do the changes you present today change
14 any of your conclusions?

15 A No.

16 Q And do the opinions in your testimony
17 represent your best professional judgment?

18 A Yes.

19 Q Could you please provide a brief summary
20 of your testimony?

21 A I conducted an independent assessment of
22 the geological/paleontological resources and
23 geological hazards for the proposed project here,
24 the Elk Hills Power project. And within that we
25 found that there are a number of LORS that apply

1 to the site, and they are listed in the staff's
2 FSA section.

3 The siting, it's been well discussed
4 already. It's in western Kern County. And this
5 particular case of relevance here, it's on the Elk
6 Hills Incline, which is a major oil producing
7 region for the continental contiguous 48 states of
8 the United States.

9 In this particular case there will be no
10 geological resource impacts by the proposed
11 project or linear facilities due to techniques
12 such as directional drilling where those resources
13 can be easily obtained, whether the project's
14 there or not.

15 The site is located in seismic zone 4,
16 per the California Building Code, and the Uniform
17 Building Code. And that makes it a more stringent
18 seismic zone in the country. Turns out that there
19 are no active faults that are known at this time
20 to cross any of the linear facilities or be
21 underneath the proposed power plant footprint.

22 There are a number of inactive faults
23 that cross electric transmission route number 1A,
24 and water supply route 2. It's been talked about
25 already that the issue of the injection wells and

1 the wastewater supply line will be deferred to the
2 March soil and water resources testimony hearing.
3 And I'd be available to discuss any further
4 impacts regarding lineations or possible faults at
5 that time for that particular portion.

6 In conclusion, I'd just like to say that
7 the site for geological and paleontological
8 resources and geological hazards appears to be
9 buildable if the project owner follows the
10 proposed conditions of certification.

11 And be open for any questions.

12 MS. WILLIS: Staff has not included Mr.
13 Anderson on the witness list for the water and
14 soils testimony, so we would like to add him to
15 that list at this time.

16 HEARING OFFICER WILLIAMS: Any
17 objections to that?

18 MS. LUCKHARDT: No objection.

19 MS. REYNOLDS: No.

20 HEARING OFFICER WILLIAMS: Okay. So
21 added.

22 MS. WILLIS: And staff would like to
23 move the section of the FSA exhibit 19 entitled
24 geological and paleontological resources into the
25 record.

1 HEARING OFFICER WILLIAMS: Any
2 objections?

3 MS. LUCKHARDT: No objection.

4 MS. REYNOLDS: No.

5 HEARING OFFICER WILLIAMS: So moved.

6 MS. WILLIS: And Mr. Anderson is
7 available for cross-examination.

8 MS. LUCKHARDT: No questions.

9 MS. REYNOLDS: We'll wait until March
10 7th.

11 HEARING OFFICER WILLIAMS: All right.

12 EXAMINATION

13 BY PRESIDING MEMBER ROHY:

14 Q Mr. Anderson, just a short question.
15 You talked about seismic zone 4, --

16 A Yes, sir.

17 Q -- and that the plant would be built in
18 accordance to the Uniform Building Code
19 regulations for seismic zone 4.

20 My question is with regard to the linear
21 facilities, the gas pipeline and the transmission
22 line, will they also be built to the same
23 standards, or are there standards for those type
24 of facilities with regard to earthquake and
25 seismic hazards?

1 A Those particular linear facilities are
2 considered underneath the project as an element of
3 the project, and as such are applicable to the --
4 have to follow Uniform Building Code and
5 California Building Code for seismic zone 4.

6 Current techniques and current practices
7 for the development of transmission lines,
8 electric transmission lines, gas transmission
9 lines, water supply lines easily cope with this
10 particular setting and not present a problem.

11 PRESIDING MEMBER ROHY: Thank you.

12 HEARING OFFICER WILLIAMS: Are there any
13 further questions of this witness?

14 MS. LUCKHARDT: No questions.

15 HEARING OFFICER WILLIAMS: Okay, you're
16 excused, thank you.

17 At this point we've covered nine topics.
18 We've covered the project description, facility
19 design, compliance monitoring, power plant
20 reliability and efficiency, visual resources,
21 socioeconomics and geological and paleontological
22 resources.

23 So those topic areas are now closed
24 except for the testimony that we will take on the
25 injection wells underwater on March 7th.

1 MS. LUCKHARDT: Does that also include
2 noise, which we've also taken today?

3 HEARING OFFICER WILLIAMS: I'm sorry,
4 noise is also closed. With that, I think we're
5 prepared to take a lunch break. We will --

6 MS. REYNOLDS: Can I say a quick
7 question, sorry, just --

8 HEARING OFFICER WILLIAMS: Sure.

9 MS. REYNOLDS: -- a clarifying question.
10 The changes, I know that we marked staff's changes
11 to socioeconomic testimony as exhibit 21. Are we
12 going to use 21 for all of their changes, or are
13 we going to have a separate exhibit for each?

14 HEARING OFFICER WILLIAMS: I think it
15 would be a good idea to put all the changes into
16 21.

17 MS. REYNOLDS: Okay.

18 HEARING OFFICER WILLIAMS: Now that
19 you've raised that. So, we'll do that. Are there
20 any other housekeeping matters that we can take up
21 at this time?

22 Okay, seeing none, we'll return at 1:00
23 and take up the final topic of the day, which is
24 cultural resources. Thank you.

25 (Whereupon, at 11:45 a.m., the hearing

1 was adjourned, to reconvene at 1:00
2 p.m., this same day.)
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1 AFTERNOON SESSION

2 1:05 p.m.

3 HEARING OFFICER WILLIAMS: Okay, we're
4 going to go on the record now. Just a few
5 housekeeping matters. So far we've had three
6 corrections to testimony that I've marked 21, was
7 the modification of Mr. Diamond's testimony on
8 socioeconomics.

9 21A was the change to geological and
10 paleontological resources testimony; that has been
11 marked.

12 21B will be the new cultural resources
13 testimony to be offered by staff that was made
14 available this morning.

15 I believe everybody has received those
16 exhibits. And, as before, we've indicated that
17 we're going to mark all the changes to testimonies
18 within exhibit number 21, and we'll just keep it
19 going in order that way.

20 Are there any other housekeeping matters
21 before we get started with cultural resources, by
22 anyone?

23 Is there any member of the public here
24 that we haven't identified who is interested in
25 the proceedings?

1 Could you come up and any mike will do.

2 MS. SIEVING: My name is Jan Sieving.

3 I'm Public Affairs Manager for Occidental at Elk
4 Hills.

5 HEARING OFFICER WILLIAMS: Thank you.

6 MR. NEWMAN: My name's Dennis Newman.
7 I'm the Environmental Manager for Elk Hills, and
8 also one of my responsibilities is to manage the
9 cultural resource programs for Occidental of Elk
10 Hills.

11 HEARING OFFICER WILLIAMS: Okay. If
12 there's no other housekeeping matters we'll get
13 started with the applicant's presentation on
14 cultural resources.

15 MS. LUCKHARDT: I have one question
16 about how you wish to proceed on cultural
17 resources. Some of the materials are
18 confidential. Some of the materials are not. And
19 I'm wondering if you want to make the whole
20 testimony on cultural resources confidential, or
21 if you want us to split our direct into the
22 nonconfidential portion and the confidential
23 portion?

24 HEARING OFFICER WILLIAMS: Let's just
25 start out with the nonconfidential matters and see

1 if we really need to take any testimony on the
2 confidential matters.

3 MS. LUCKHARDT: Okay, we have received a
4 confidential exhibit from CURE in this case, and
5 we have some response to that --

6 HEARING OFFICER WILLIAMS: Okay.

7 MS. LUCKHARDT: -- that we would like to
8 make. And that will probably also involve opening
9 up our confidential exhibit, which is a large map,
10 in order to show the differences between the two.

11 And I don't know of any other way of
12 talking about that without presenting the
13 confidential information that has been presented
14 by CURE and our confidential information, as well.

15 (Pause.)

16 PRESIDING MEMBER ROHY: Will you let us
17 know when you get to the need for a confidential
18 briefing, and then we will take different actions.
19 Do you want to start at that point, or do you
20 want -- I would prefer to start with the
21 nonconfidential parts.

22 MS. LUCKHARDT: Okay. Would you like us
23 to conclude our nonconfidential testimony at that
24 time, or then move into our confidential
25 testimony?

1 PRESIDING MEMBER ROHY: I believe we
2 want to conclude the nonconfidential, but not
3 close the record. So we're --

4 MS. LUCKHARDT: Okay.

5 PRESIDING MEMBER ROHY: -- going to have
6 to be very careful because we can't be on the
7 record for the confidential part.

8 MS. LUCKHARDT: Okay.

9 HEARING OFFICER WILLIAMS: In other
10 words, we're going to have sort of an in camera
11 session where only the people that really need to
12 know, your witnesses, and the other party's
13 witnesses who have had access to the material.

14 And we will essentially review the
15 guidelines and look at the evidence to be
16 submitted, and make some rulings or whatever. But
17 we won't make any findings that will be in the
18 record on the confidential matters.

19 MS. LUCKHARDT: Okay, when I get to that
20 point -- I have my questions split and when I get
21 to that point I will say, you know, would you like
22 me to continue with my confidential direct at this
23 time or not.

24 HEARING OFFICER WILLIAMS: Okay.

25 MS. LUCKHARDT: Guide me as to what you

1 prefer.

2 Okay, the applicant's witness on
3 cultural resources is Mr. Douglas Davy, and he
4 needs to be sworn.

5 HEARING OFFICER WILLIAMS: Would you
6 swear the witness, please.
7 Whereupon,

8 DOUGLAS DAVY
9 was called as a witness herein and after first
10 being duly sworn, was examined and testified as
11 follows:

12 DIRECT EXAMINATION

13 BY MS. LUCKHARDT:

14 Q Mr. Davy, please state your name and
15 your title for the record.

16 A My name is Douglas M. Davy. My title is
17 Supervising Scientist with Foster Wheeler
18 Environmental Corporation.

19 MS. LUCKHARDT: Mr. Davy's
20 qualifications have been presented in his prefiled
21 testimony.

22 BY MS. LUCKHARDT:

23 Q Mr. Davy, could you just provide for the
24 Committee your years of experience in cultural
25 resources.

1 A I have 18 years of experience conducting
2 cultural resources management projects including
3 archeological surveys for projects that include
4 power plant license applications before the Energy
5 Commission.

6 I've been involved in all phases of
7 cultural resources management work for
8 infrastructure development projects including
9 power plant license applications, transmission
10 lines, freeway construction, projects of that
11 nature for approximately 18 years.

12 I am a registered professional
13 archeologist, and I have a PhD degree in
14 archeology.

15 Q Thank you. And are you sponsoring the
16 exhibits listed in your testimony on pages 2 and 3
17 of that testimony?

18 A Yes, I am.

19 Q And do you have any corrections to make
20 to that testimony at this time?

21 A I have three corrections to make to the
22 testimony. On page 2 of the question and answer
23 portion on line 9, line 9 says appendix L2
24 cultural resources technical report. To that I
25 would like to add appendix L3.

1 On line 16 of the same page the
2 testimony refers to exhibit 4, response to staff
3 data request number 80 through 88. The correct
4 reference is exhibit 2 rather than exhibit 4.

5 On line 20 James C. Cillen with a "C"
6 should be James C. Killen with a "K".

7 HEARING OFFICER WILLIAMS: Would you
8 repeat that, it's James C --

9 DR. DAVY: James C. Killen, the last
10 name Killen. In the testimony on page 2 it is
11 currently spelled with a C, the first letter of
12 his name. The correct spelling is with a "K".

13 HEARING OFFICER WILLIAMS: I see, thank
14 you.

15 DR. DAVY: On page 7 of the testimony
16 the final paragraph states, "Following review of
17 the AFC for the EHPP the Commission Staff in its
18 FSA recommends the adoption of 17 conditions of
19 certification, CUL-1 through CUL-17."

20 The correction is adoption of 19
21 conditions of certification that are numbered CUL-
22 1 through CUL-19, rather than 17.

23 And those are all the corrections that I
24 have.

25 //

1 BY MS. LUCKHARDT:

2 Q And are those exhibits, including your
3 corrections, your true and sworn testimony in this
4 proceeding?

5 A Yes, they are.

6 Q And could you please summarize your
7 prefiled testimony?

8 A The applicant has reviewed the existing
9 literature on cultural resources within and near
10 the area of potential effects of the Elk Hills
11 Power project. And the applicant has conducted
12 pedestrian archeological surveys to look for
13 previously undiscovered cultural resources
14 including archeological and historic sites.

15 The applicant has identified a number of
16 sites that are located near the project
17 facilities, including the transmission line and
18 the water supply pipeline. The applicant has
19 proposed measures to avoid significant impacts to
20 all of these resources.

21 And the applicant's also proposed a
22 training program and a monitoring program for
23 construction.

24 MS. LUCKHARDT: Thank you. I would like
25 to move Dr. Davy's prefiled exhibits into the

1 record at this time.

2 HEARING OFFICER WILLIAMS: Any
3 objections?

4 MS. WILLIS: No.

5 MS. REYNOLDS: No.

6 HEARING OFFICER WILLIAMS: So admitted.

7 MS. LUCKHARDT: At this time I would
8 like to respond through questions of Dr. Davy to
9 the testimony filed by CURE in this subject area.
10 BY MS. LUCKHARDT:

11 Q Okay, Dr. Davy, have you reviewed the
12 testimony provided by Ms. Dominguez in this
13 proceeding?

14 A Yes.

15 Q And could you please refer to the
16 application for certification, which is exhibit 1,
17 appendix L-3. And could you refer to the first
18 letter included in that exhibit.

19 Is that letter addressed to Ms.
20 Dominguez?

21 A Yes, it is.

22 Q Could you please read the third
23 paragraph of that letter?

24 A "I am also sending you a fax sheet on a
25 feasibility study being conducted for a power

1 plant proposed to be located in the Elk Hills
2 field. The plans are in the early stages, but we
3 thought you would appreciate hearing about the
4 proposal now. Occidental is planning on updating
5 interested Native Americans on future activities
6 at Elk Hills at the December coalition meeting."

7 Q Thank you. And if you refer to the
8 sign-in sheet included at the back of that
9 appendix, does Ms. Dominguez' name appear on that
10 sheet?

11 A Yes, I believe it does.

12 Q Thank you. Dr. Davy, in your field what
13 would be considered sufficient notice to Native
14 Americans?

15 A Step one would be the identification of
16 interested Native Americans, with generally having
17 a connection to the Native American group that
18 occupied the project area before the historic era.

19 And the second step would be to write a
20 letter requesting or asking if the parties have an
21 interest in the project. Possibly followed up by
22 a meeting.

23 Q In your investigations of the project
24 site in the APE area, have any Native American
25 human remains been found within either of those

1 areas?

2 A No.

3 Q And further based on your investigation
4 of those areas, have any sacred sites with
5 discrete boundaries been identified in those
6 areas?

7 A They have not.

8 Q In your opinion will construction of the
9 proposed project result in significant cumulative
10 impacts to cultural resources?

11 A Because we believe we proposed measures
12 to avoid all cultural resources, there can be no
13 cumulative impacts.

14 Q What is the standard professional
15 practice for identifying archeological sites?

16 A For a project such as this the standard
17 professional practice includes the steps that I
18 mentioned earlier.

19 That includes a literature search and
20 pedestrian survey. Literature search means going
21 to any record repositories that have information
22 about cultural resources that have been recorded
23 previously, and determining where those are
24 located on a map.

25 Pedestrian survey means going to the

1 project area, particularly the area of potential
2 effects, and conducting an on-the-ground pedestrian
3 survey to look for sites that have not previously
4 been discovered.

5 Q And did you follow that practice in
6 preparing your reports for this case?

7 A Yes, we did.

8 Q Would it be proper to characterize the
9 surveys you conducted as intensive?

10 A Yes, it would.

11 Q Does your report filed in this
12 proceeding identify all previously recorded sites,
13 and sites identified through your investigation on
14 this project, for the project area and the APE
15 area?

16 A Yes.

17 Q Please explain the measures in place to
18 address known cultural sites within the APE area.

19 A The measures in place to address known
20 cultural sites include primarily avoidance. Fine
21 tuning of the final routes of the linear
22 facilities, the transmission line and the water
23 supply pipeline where they are near known sites.

24 Where the transmission line crosses
25 known sites, the avoidance measures will include

1 judicious siting of the support poles for the
2 electrical conductors, some subsurface testing
3 when the locations of the power poles are known to
4 make certain that we're not going to affect buried
5 deposits that can't be seen on the surface.

6 Q And are these measures a part of the
7 conditions presented by staff?

8 A Yes, they are.

9 Q And please explain the measures in place
10 to respond to new discoveries of cultural
11 resources.

12 A We're going to monitor construction so
13 that if there are buried cultural resources it
14 will be possible to detect them during
15 construction of any subsurface activity that needs
16 to be done during construction.

17 If we find buried archeological
18 resources or previously unrecorded resources
19 during construction the mitigation measures in the
20 FSA have established the procedure for consulting
21 with the Energy Commission and other parties to
22 evaluate the potential significance of the
23 resource.

24 The mitigation measures also specify
25 that we may want to use archeological excavation

1 methods to evaluate the resource, and possibly to
2 mitigate any potential damage to the resource that
3 might occur if it's not possible to avoid it.

4 Q And are there special protections in
5 place for positioning some of the transmission
6 line pole locations?

7 A Yes, there are. One of the mitigation
8 measures specifies that when the final locations
9 of the transmission poles, support poles are known
10 that we're required to conduct an intensive on-
11 the-ground survey of an area 100 feet in diameter
12 centered on the pole.

13 And also if there are any indications
14 within that 100-foot diameter area of cultural
15 resources deposits, we are to implement a test
16 excavation unit one by one meter square at the
17 power pole location.

18 That will determine whether or not there
19 are buried significant cultural resources,
20 archeological deposits that the construction of
21 the transmission line would affect.

22 Q Dr. Davy, you mentioned in your most
23 recent response survey, have you surveyed this
24 area?

25 A Yes, we have.

1 Q And so how would you describe the
2 special investigations regarding the pole
3 locations? Would you describe those as a survey,
4 as well?

5 A No, I would describe those as subsurface
6 testing.

7 Q In your opinion do these measures
8 adequately assess and address potential impacts to
9 cultural resources?

10 A Yes, they do.

11 Q And do these measures provide sufficient
12 information for the Commission to make a
13 determination of the potential impacts of the
14 project on archeological resources?

15 A Yes.

16 Q Is the 110 days provided for in staff's
17 conditions sufficient time to assess cultural
18 resources?

19 A Yes, it is. To clarify, if at a power
20 pole site, for example, we execute a test
21 excavation unit, 110 days is sufficient time to
22 excavate the unit and to analyze the contents, and
23 to come up with a recommendation regarding -- or
24 an evaluation of the significance of the find.

25 MS. LUCKHARDT: My next set of questions

1 involves confidential materials. Would you like
2 me to proceed with that at this time, or would you
3 rather we do all of the nonconfidential portion of
4 this hearing at this time?

5 HEARING OFFICER WILLIAMS: We're going
6 to do all the nonconfidential --

7 MS. LUCKHARDT: All the nonconfidential
8 first. Then that concludes my questions of Dr.
9 Davy. And so he is now available for cross-
10 examination.

11 HEARING OFFICER WILLIAMS: Okay, he's
12 now available for cross-examination on the
13 nonconfidential portion. So, staff, you may
14 proceed if you have any cross.

15 MS. WILLIS: Staff does not have any
16 questions of Dr. Davy at this time.

17 HEARING OFFICER WILLIAMS: Does CURE?

18 MS. REYNOLDS: Yes, we have a few
19 questions.

20 HEARING OFFICER WILLIAMS: Proceed.

21 CROSS-EXAMINATION

22 BY MS. REYNOLDS:

23 Q Mr. Davy, in your testimony you state
24 that the primary mitigation for construction
25 impacts cultural resources will be attempting to

1 avoid recorded sites to the extent feasible.

2 That's in attachment A, page 3.

3 Who will make the determination about
4 whether it's feasible to avoid the sites?

5 A Well, that will be a consultation
6 process between the applicant and the Energy
7 Commission.

8 Q Where in the conditions does that say
9 that there will be consultation about whether or
10 not it's feasible to avoid sites? Can you point
11 me to that? I don't recall seeing that.

12 A Off the top of my head I don't know
13 exactly where it says, but it's standard practice
14 to consult if -- if we have an emergency find, for
15 example, of a previously undiscovered site.

16 Q Do you want to take a minute to look
17 through the conditions?

18 (Pause.)

19 DR. DAVY: Well, it may or may not be
20 spelled out in the mitigation measures. It is a
21 standard clause that we include in our monitoring
22 and mitigation plan. And that's required in
23 condition number 4.

24 MS. REYNOLDS: Would the applicant have
25 any objection to an expressed condition requiring

1 consultation with the CEC about feasibility of
2 avoiding cultural resources?

3 I don't know if you can answer that,
4 yourself.

5 MS. LUCKHARDT: Dr. Davy is not
6 qualified to answer for the applicant on an
7 additional condition without consultation with the
8 project owners.

9 MS. REYNOLDS: I don't know what to do
10 here because he's the one who's talking -- he has
11 said in his testimony that the applicant has found
12 these conditions to be acceptable. It appears I
13 have no one to cross-examine about whether or not
14 changes to the conditions are acceptable or not.
15 So I don't know how to deal with this.

16 MS. LUCKHARDT: Changes to the
17 conditions and whether they are acceptable or not
18 acceptable is not a condition of -- it's not a
19 portion of an expert's testimony. That's a
20 decision to be made by the project owner. And
21 only the project owner can make that
22 determination.

23 You can request that we do that, or that
24 we consider that. But Dr. Davy cannot speak for
25 the project owner when he has not consulted with

1 the project owner on new conditions which are
2 presented during the hearing.

3 MS. REYNOLDS: Okay, then I will tailor
4 my question to his testimony which says, I have
5 reviewed and agree with these conditions.

6 BY MS. REYNOLDS:

7 Q Would you, in your professional
8 judgment, agree with a condition that expressly
9 made it a requirement for the project applicant to
10 consult with the CEC over feasibility of avoiding
11 a cultural site?

12 A Please repeat the question?

13 Q In your professional judgment, would you
14 agree with a condition that expressly required the
15 project applicant or its contractors who were
16 doing construction to consult with the CEC to
17 determine feasibility of avoiding sites?

18 A Yeah, it's part of my standard operating
19 procedure to consult with a regulatory agency
20 that's directly involved with the project that I'm
21 working on.

22 Q Okay, thank you. In your professional
23 opinion do you have any objection to having an
24 archeologist on site during all clearing and soil-
25 disturbing activities associated with project

1 construction?

2 A It may not be necessary to have an
3 archeologist on site for all of the ground-
4 disturbing activities. There are a few areas that
5 are -- there are portions of the project that have
6 some sensitivity where it's much more likely that
7 you'll run into buried deposits than others.
8 There may be portions of the project alignments
9 that where it's very unlikely that you'll
10 encounter buried deposits. For example, on steep
11 and highly eroded slopes.

12 Q Can you state with certainty that in
13 your professional opinion there are areas where
14 there is no possibility of finding sites?

15 A Oh, no, of course not. It's not
16 possible to state with certainty that, you know,
17 there's anywhere that you might not somehow find a
18 buried cultural resource.

19 But there are areas where the
20 probability is very very low.

21 Q But you acknowledge that there's a
22 possibility for discovering currently unknown
23 sites during project construction?

24 A Oh, yes.

25 Q In your professional opinion would you

1 have any objection to a condition of certification
2 that required Native American monitors on site
3 during all clearing and soil-disturbing activities
4 related to project construction?

5 A Would I have an objection?

6 MS. LUCKHARDT: You know, this whole
7 line of questioning is difficult because Dr. Davy
8 is an expert in archeology, he is not a project
9 owner. And by asking him to respond as an
10 owner, --

11 HEARING OFFICER WILLIAMS: Well, I don't
12 think she's doing that, counsel. I think she's
13 asking him in his personal professional judgment
14 as an archeologist. I don't think the question is
15 directed at him as a project owner.

16 MS. LUCKHARDT: Then I will direct him
17 to answer as an archeologist.

18 DR. DAVY: As an archeologist there's no
19 reason to object to a participation of Native
20 American monitors in archeology.

21 BY MS. REYNOLDS:

22 Q Have you been involved in activities in
23 the past where this has been done?

24 A Yes, I have.

25 Q Have there been problems?

1 A No.

2 Q Okay. In your professional opinion as
3 an archeologist, would you have a problem with a
4 condition that required consultation with Native
5 Americans about how to deal with cultural
6 resources discovered during construction?

7 MS. LUCKHARDT: Could you please define
8 whether cultural resources are all cultural
9 resources or whether you're talking about --

10 MS. REYNOLDS: Native American related.

11 MS. LUCKHARDT: -- potential graves, or
12 shell scatters, or what you're referring to?

13 MS. REYNOLDS: All cultural resources
14 related to Native Americans including beads,
15 burial sites, shell scatters.

16 DR. DAVY: Well, as before, I see no
17 reason to object in principle to consulting with
18 Native Americans about prehistoric archeology.

19 BY MS. REYNOLDS:

20 Q You characterized your survey as
21 intensive on direct examination. Did you do
22 subsurface exploration and testing during your
23 survey of the project APE?

24 A We did what we call shovel probes.
25 Shovel probes are used where you can't see the

1 ground surface because of dense vegetation. In
2 those areas our survey crew was instructed to
3 execute a shovel probe every 20 meters.

4 Q How deep does a shovel probe go?

5 A The purpose is really to see below
6 vegetation. To determine whether there are
7 archeological soils or artifacts present.

8 Q So does it break the soil surface
9 or --

10 A Yes, it does.

11 Q Okay. But how -- approximately --

12 A Up to 10 centimeters.

13 Q Okay. So that was every 20 meters?

14 A Every 20 meters.

15 Q In the areas that you actually surveyed?

16 A Yes.

17 Q There were, according to the map in the
18 AFC, I guess it's figure 5.16-2, it's a map of the
19 survey area, and there are several areas in there
20 that it appears were not re-surveyed because they
21 were surveyed before.

22 A That's right.

23 Q And it also states in the AFC that steep
24 slopes were not surveyed, is that correct?

25 A That's right.

1 Q About what percentage, I can't tell on
2 this map and I don't have the confidential
3 filings, about what percentage of the water supply
4 line constitutes steep slopes that were not
5 surveyed?

6 HEARING OFFICER WILLIAMS: Counsel,
7 would you state again what the reference is that
8 you're looking at there?

9 MS. REYNOLDS: It's AFC figure 5.16-2.
10 The title is archeological field survey,
11 November - December 1998.

12 HEARING OFFICER WILLIAMS: Okay.
13 BY MS. REYNOLDS:

14 Q What I'm trying to determine here is
15 exactly which portions were actually surveyed by
16 you or under your direction.

17 And I know that during the site visit I
18 noticed that the water line is pretty much all
19 steep slope, so I'm trying to figure out what you
20 actually surveyed on both the water supply line
21 and the transmission line.

22 A I really don't have an estimate of what
23 percentage of the water line is steep slopes.
24 Approximately half of the water supply line is
25 going to be on pipe rack, however. And most of

1 that area is the area characterized by steep
2 slopes.

3 Q And as far as the transmission line, is
4 that -- what --

5 A Most of the transmission line,
6 particularly route 1A, is relatively level ground.

7 Q Okay, so that --

8 A That was -- there were no steep slopes
9 in that area.

10 Q How about transmission line 1B?

11 A A pretty good percentage of 1B is in the
12 San Joaquin Valley, is flat. There may be some
13 areas up towards the summit that were
14 prohibitively steep.

15 Q So within the Elk Hills Oil Field that
16 looks to be about four miles of that line.

17 A Without looking at the map I don't know.

18 Q Would you like to see it? You don't
19 have any way of estimating the percentage of area
20 that you actually surveyed of that transmission
21 line?

22 A I don't have an estimate, no.

23 Q Okay.

24 MS. REYNOLDS: Okay, those are all the
25 questions I have for Mr. Davy.

1 HEARING OFFICER WILLIAMS: Is there any
2 redirect?

3 MS. LUCKHARDT: Yes.

4 PRESIDING MEMBER ROHY: While we're just
5 in a moment, would everyone please try to talk a
6 bit louder. The air conditioning does shield
7 voices in here. Without amplification it makes it
8 difficult to hear, even when you're facing us. So
9 I feel for the people who are behind you.

10 REDIRECT EXAMINATION

11 BY MS. LUCKHARDT:

12 Q In your opinion, Dr. Davy, is it
13 necessary to have an archeologist on site for all
14 excavations?

15 A In my opinion it is not necessary to
16 have an archeologist on site for all excavation,
17 only for areas identified as likely to contain
18 buried resources.

19 Q When you responded that you do not have
20 a problem with Native American consultation for
21 all artifacts, in your understanding of the word
22 consultation, what would that involve?

23 A Disclosure of a find. Explanation of
24 what we found and where it was found.

25 Q And can you explain why you did not

1 survey the steep slopes?

2 A Well, in some cases there's a safety
3 issue. But generally, steep slopes in areas where
4 there is rapid erosion are extremely unlikely to
5 contain archeologist deposits for the simple
6 reason that, you know, erosion takes place very
7 quickly in arid areas.

8 And for one, it's very unlikely that --
9 it's difficult for people to carry out activities
10 on steep slopes, so there are very few
11 archeological sites there in the first place.

12 In the second place, because of the
13 rapid rate of erosion, any deposits that are there
14 are removed very quickly, they're washed down the
15 slope.

16 So it's difficult for an experienced
17 archeologist to make that judgment.

18 MS. LUCKHARDT: Thank you. I have
19 nothing further.

20 HEARING OFFICER WILLIAMS: Okay. Thank
21 you.

22 MS. REYNOLDS: I actually have recross.
23 One question.

24 HEARING OFFICER WILLIAMS: Okay.

25 //

1 RECROSS-EXAMINATION

2 BY MS. REYNOLDS:

3 Q In areas where there were steep slopes
4 that you did not survey you just stated that the
5 materials would wash down the slope. Did you
6 survey the valleys or --

7 A Yes, we did.

8 Q Okay.

9 MS. REYNOLDS: That's all.

10 HEARING OFFICER WILLIAMS: Seeing no
11 further questions I think we can move now to --
12 well, did you want to introduce those exhibits?

13 MS. LUCKHARDT: Yes, if they have not
14 already been moved, I move to enter applicant's
15 cultural resources exhibits into the record.

16 HEARING OFFICER WILLIAMS: Okay, insofar
17 as the nonconfidential portions of the exhibits
18 designated as Dr. Davy's testimony, are there any
19 objections to those?

20 MS. REYNOLDS: No.

21 MS. WILLIS: No objection.

22 HEARING OFFICER WILLIAMS: Okay, those
23 will be admitted.

24 I think we can move along to staff.

25 MS. WILLIS: Staff would like to call

1 Dorothy Torres and Roberta Greenwood.

2 HEARING OFFICER WILLIAMS: Would you
3 swear the witnesses, please.

4 Whereupon,

5 DOROTHY TORRES and ROBERTA GREENWOOD
6 was called as a witness herein and after first
7 being duly sworn, was examined and testified as
8 follows:

9 MS. WILLIS: Staff is prepared to offer
10 these witnesses as a panel so I will address each
11 one's qualifications, and then each will provide a
12 summary. And then we'll offer them both for
13 cross-examination at the same time, if that's okay
14 with the Committee.

15 HEARING OFFICER WILLIAMS: That's fine,
16 thank you.

17 DIRECT EXAMINATION

18 BY MS. WILLIS:

19 Q Could you please state your name for the
20 record.

21 A Roberta Greenwood.

22 Q And did you prepare the FSA section
23 entitled cultural resources?

24 A Along with Dorothy Torres, yes.

25 Q Could you briefly describe your

1 education and experience?

2 A Education, I was a graduate of Wellesley
3 College. One year of graduate school in public
4 administration at Boston University. Two years in
5 PhD program at UCLA.

6 Plus advanced professional training
7 courses on section 106; National Advisory Council;
8 Historic Preservation Workshops on guidelines and
9 procedures.

10 Q Do the opinions contained in your
11 testimony represent your best professional
12 judgment?

13 A Yes.

14 DIRECT EXAMINATION

15 BY MS. WILLIS:

16 Q Could you please state your name for the
17 record?

18 A I'm Dorothy Torres, Energy Analyst here
19 at the Energy Commission.

20 Q Did you prepare a section of this final
21 staff assessment entitled --

22 PRESIDING MEMBER ROHY: Excuse me, could
23 you put the recording microphone in front of her.

24 BY MS. WILLIS:

25 Q And did you also prepare the section of

1 the final staff assessment entitled cultural
2 resources?

3 A Yes, I did.

4 Q Did you include in that exhibit 19, the
5 final staff assessment, a statement of your
6 qualifications?

7 A Yes, I did.

8 Q Do you have any changes or corrections
9 to your testimony at this time?

10 A Yes, I do.

11 Q And those changes have been marked as
12 exhibit 21B?

13 HEARING OFFICER WILLIAMS: Yes.

14 BY MS. WILLIS:

15 Q Could you please summarize or highlight
16 any of the changes?

17 A Most of the changes are pretty much just
18 editorial comments. I'd like to call attention to
19 page 253 where we're changing something of a
20 little more importance. We're changing the time
21 in the verification from 30 days to 110 days.
22 That's because this condition requires Native
23 American monitoring. And realistically if the
24 Native American monitor is to be present at the
25 survey required in 110 days, then the verification

1 of having obtained a Native American monitor will
2 be required at 110 days also.

3 MS. REYNOLDS: Which condition was that?

4 MS. TORRES: Number 9.

5 BY MS. WILLIS:

6 Q With these changes are the facts
7 contained in your testimony true and correct?

8 A Yes.

9 Q And do the opinions contained in your
10 testimony represent your best professional
11 judgment?

12 A Yes, they do.

13 Q And now I'd like to ask Ms. Greenwood to
14 provide a summary of her testimony.

15 MS. GREENWOOD: I think you've probably
16 all read and digested the staff's comments. I
17 would like to highlight just four of the
18 conditions and explain the reasoning for them.

19 Cultural condition 1 establishes the
20 qualifications of the cultural resource
21 specialist, and team members professionally
22 qualified in historical and/or industrial
23 archeology. This is necessary, we felt, because
24 of the great number of historical technical sites.

25 The evaluation which was prepared and

1 sent to OHP several years ago was based on a 1977
2 report which was in turn based on surface
3 observations of a selected 19 sites out of the 175
4 historical sites then known. Of these only one
5 was in the APE.

6 The sample included some of the largest
7 and most complex sites in the APE, and buffer
8 zone, and explicitly included all those that were
9 not then known to be associated with a given oil
10 lease or company. And those which were, quote, "a
11 common type," end quote.

12 The entire sample was drawn from the low
13 3100, 31,000 and 32,000 site numbers, although the
14 numbers are now well up into the 6000's. That's
15 why we felt it necessary to bolster the
16 professional team with some expertise.

17 Cultural condition 3 pertains to the
18 survey of the final APE and other areas which may
19 be affected by construction or operation of the
20 project.

21 The survey and any additional
22 evaluations warranted would be conducted by the
23 designated cultural resource specialist team,
24 which includes a qualified historical and/or
25 industrial archeologist, and a Native American,

1 all of whom will have been approved by staff.

2 We feel this is important because the
3 present APE may be somewhat altered in final
4 engineering. Not all the laydown or other work
5 areas have yet been pinpointed. Some boundaries
6 have not been delineated by testing. And other
7 sites which are mapped with all proper concern as
8 directly adjacent to an APE may well extend into
9 an APE.

10 Some areas outside of the APE may be
11 altered to address concerns rising out of biology,
12 paleontology or other environmental aspects.

13 Condition four we feel is one of the
14 most important. And I think many of the questions
15 that have been raised of Dr. Davy would indeed be
16 covered in the preparation of the cultural
17 resources monitoring and mitigation plan, so
18 called CRMMP.

19 In this document the cultural resource
20 specialist will set forth all of the steps and
21 procedures and personnel to be involved. The
22 composition -- the research design, which they
23 would submit, provides the framework for
24 evaluating the significance of known or newly
25 discovered sites.

1 The composition of the team guarantees
2 the participation of relevant qualified
3 professionals and Native American consultants.
4 The identification of the sites which should be
5 avoided and those which may need testing to
6 evaluate their significance is based upon the
7 results of the cultural condition 3 survey.

8 Each element of this CRMMP will be
9 subject to review and written approval by the
10 staff which will, of course, continue to be
11 involved throughout the entire process.

12 Condition 9, just briefly stated,
13 provides again the presence of Native American
14 monitors, representatives to be identified by the
15 cultural resource specialist and approved by staff
16 as set forth in condition 4, and will be present
17 throughout the pre-construction surveys and
18 construction.

19 I think the other conditions are
20 straightforward, have been used successfully in
21 the past, and pertain mostly to schedules and
22 reporting responsibilities. They are comparable
23 to others used in my experience on major projects;
24 and should bring this project to a successful
25 completion without significant impact to

1 significant cultural resources.

2 MS. WILLIS: Have you reviewed Ms.
3 Dominguez' testimony?

4 DR. GREENWOOD: Yes, I have.

5 MS. WILLIS: And did you review the map
6 filed as confidential exhibit B?

7 DR. GREENWOOD: I did.

8 MS. WILLIS: I have one question. On
9 page 7 of Ms. Dominguez' testimony --

10 HEARING OFFICER WILLIAMS: Counsel, is
11 this confidential testimony?

12 MS. WILLIS: No, it is not.

13 HEARING OFFICER WILLIAMS: Okay, thank
14 you.

15 MS. WILLIS: I just want to establish
16 that she's looked at the information.

17 HEARING OFFICER WILLIAMS: Okay.

18 MS. WILLIS: Ms. Dominguez states that
19 there may be more cultural sites at Elk Hills that
20 have not yet been discovered. Do you agree with
21 that statement?

22 DR. GREENWOOD: I do agree with that.

23 MS. WILLIS: And has staff, any of the
24 staff's proposed conditions of certification
25 addressed that issue?

1 DR. GREENWOOD: I think they have in two
2 ways, by the pre-construction survey, which would
3 be required; and by the provisions for dealing
4 with unanticipated resources which may be
5 discovered during construction.

6 MS. WILLIS: Thank you. I'd like to ask
7 Ms. Torres to provide a summary of her testimony
8 regarding Native American monitor.

9 MS. TORRES: Most of -- just wave at me
10 if you can't hear me, my voice is going.

11 Most of the conditions of certification
12 are very similar to those that we've placed on
13 other applicants. We made slight variations in
14 several of the conditions to adjust for Native
15 American monitoring.

16 We've also, as Roberta has testified,
17 written condition number 9 which directly
18 addressed Native American monitoring and requires
19 that a Native American monitor be obtained and
20 that the applicant submit a document to the Energy
21 Commission verifying that fact.

22 Our intent with this condition is to
23 make sure that a Native American monitor is on
24 site with the cultural resources team and is part
25 of that team.

1 Our reasons for adding this condition,
2 which is new to the Elk Hills project, is that
3 first of all, there's a great deal of
4 archeological evidence of human occupation in that
5 area for thousands of years.

6 Second, 81 sites in that area and
7 isolates have been identified. And thirdly,
8 staff's concern over the potential for uncovering
9 human remains.

10 I'd like to add that condition 3, which
11 is also new, is an additional survey to surveys
12 already conducted. And we're requiring that that
13 be completed within -- or conducted, rather,
14 within 110 days before earth-disturbing
15 activities. For cultural resources, when earth-
16 disturbing activities occur is the important time.

17 I'd also like to reiterate Roberta's
18 contention that the monitoring and mitigation plan
19 that's prepared by the cultural resources
20 specialist will address inclusion of Native
21 American monitoring. And that's the appropriate
22 place for the cultural resources specialist to
23 tell us the procedures used in identifying a
24 Native American monitor.

25 Also, it will address roles and

1 responsibilities of the Native American monitor.

2 And that's a place to discuss perhaps how the
3 Native American monitor is acting as a liaison
4 between project personnel and the Native American
5 community.

6 I'd like to stress here that when the
7 conditions are written and there's permitting,
8 that the cultural resources staff doesn't go away.
9 We review and approve the monitoring and
10 mitigation plan and several documents, according
11 to several conditions in the conditions of
12 certification.

13 It's part of the job to see the project
14 through to completion. And sometimes on.

15 That concludes my summary.

16 MS. WILLIS: Thank you. I'd like to ask
17 you a few follow-up questions. Did you review Ms.
18 Dominguez' testimony?

19 MS. TORRES: Yes, I did.

20 MS. WILLIS: Just to clarify, Ms.
21 Dominguez states that she believes that the
22 surveys should be required before certification.

23 In your professional opinion is this
24 required?

25 MS. TORRES: No, because the cultural

1 resources conditions have stringent timelines when
2 things have to be accomplished. And for us, again
3 the important date is earth-disturbing activities.

4 MS. WILLIS: On page 9 Ms. Dominguez
5 discusses complete avoidance of impacts to
6 cultural resources. Do you have a professional
7 opinion regarding complete avoidance?

8 MS. TORRES: Well, first and foremost,
9 avoidance is always the most desirable way to go.
10 But, if avoidance is simply not possible, perhaps
11 not technologically feasible, then data recovery
12 would have to be considered.

13 MS. WILLIS: Thank you. I don't have
14 any further questions. I'd like to move the
15 cultural resources section of the FSA as exhibit
16 19, and then the additional changes as exhibit
17 21B.

18 HEARING OFFICER WILLIAMS: Any
19 objection?

20 MS. REYNOLDS: No.

21 MS. LUCKHARDT: No objection.

22 HEARING OFFICER WILLIAMS: So moved.

23 MS. WILLIS: These witnesses are
24 available for cross-examination.

25 MS. LUCKHARDT: No questions.

1 MS. REYNOLDS: I have a few.

2 CROSS-EXAMINATION

3 BY MS. REYNOLDS:

4 Q Dorothy, I have two reports of
5 conversation that I just received, they were -- I
6 just received them Wednesday or Thursday, so I
7 think that you've probably received these, too.

8 I would like to give you a copy of these
9 so that you can look at them. These are --

10 MS. LUCKHARDT: I'd like to just take a
11 moment here, since these weren't identified as the
12 exhibits --

13 MS. REYNOLDS: Yes. I just received
14 these yesterday. I'm sorry about the --

15 MS. LUCKHARDT: Well, I understand that
16 you just received them yesterday. I didn't
17 understand that they would be presented and used
18 during the hearing. And, so I would like to just
19 take a second to --

20 MS. REYNOLDS: Sure.

21 MS. LUCKHARDT: -- confer with some
22 folks before we continue --

23 MS. REYNOLDS: Okay.

24 MS. LUCKHARDT: -- on this line.

25 HEARING OFFICER WILLIAMS: Yes, let's go

1 off the record.

2 (Off the record.)

3 HEARING OFFICER WILLIAMS: As I
4 understand it now, Ms. Reynolds has presented a
5 document, actually two pages, a report of
6 conversation dated 1/18, signed by Ms. Torres.

7 And I understand that you want to ask
8 questions on this --

9 MS. REYNOLDS: Yes, I --

10 HEARING OFFICER WILLIAMS: -- on this
11 particular --

12 MS. REYNOLDS: -- I wanted to ask Ms.
13 Torres questions about that, and I wanted to ask
14 for it to be admitted as an exhibit.

15 HEARING OFFICER WILLIAMS: Well, let's
16 mark it for --

17 MS. LUCKHARDT: At this --

18 HEARING OFFICER WILLIAMS: -- let's mark
19 it for identification first as next in order.
20 That would be I think exhibit 22. Is that what
21 you have, number 22?

22 MS. WILLIS: 22.

23 HEARING OFFICER WILLIAMS: Okay. We'll
24 call it exhibit 22, pages 1 and 2. And you've
25 seen the document, counsel?

1 MS. LUCKHARDT: I have seen the
2 document. My objection to the entry of this
3 information at this time is not based on
4 necessarily the substance of that document, but
5 based upon our agreement in the prehearing
6 conference not to present additional information
7 and exhibits at the hearing.

8 I have in my possession copies of a
9 letter that was sent to -- that was copied to Ms.
10 Dominguez about the project in May of 1999 that I
11 would have entered into the record in our direct
12 testimony if I thought that was appropriate.

13 And if you are willing to accept and are
14 going to accept additional information at this
15 time, I would like to enter that letter into the
16 record as well.

17 MS. REYNOLDS: Ms. Luckhardt, when did
18 you become aware of that letter, that May letter?

19 MS. LUCKHARDT: I became aware of this
20 letter yesterday.

21 MS. REYNOLDS: And who brought that
22 letter to your attention?

23 MS. LUCKHARDT: Which is the same time I
24 became aware of Ms. Torres' records of
25 conversation.

1 MS. REYNOLDS: Who was that letter sent
2 by? Was it sent by someone at Occidental or Elk
3 Hills Power project?

4 MS. LUCKHARDT: It was sent by someone
5 at Occidental.

6 MS. REYNOLDS: So I don't think it's any
7 fault of anyone else that you weren't informed
8 about that letter until yesterday. These letters
9 just came out, and I just received them in the
10 mail either one or two days ago.

11 Now, staff stated in the PSA conference
12 that was held in early December that they were
13 going to attempt to contact Native Americans,
14 themselves, because they didn't think the
15 applicant's contacts were sufficient, simply
16 sending letters out.

17 It's no fault of mine that these
18 contacts were not made until very recently. And I
19 think there's important information in these
20 reports of conversation. And I think it's
21 unfortunate that they just came out, but you have
22 no objection to the contents of the reports.

23 MS. LUCKHARDT: Well, I think there is
24 very important information and pertinent
25 information stated in the letter that I have of

1 May of this year, that I initially elected not to
2 attempt to present, based upon our agreement at
3 the prehearing conference, and the statements from
4 the Hearing Officer at that time that they were
5 not interested in new information being presented
6 at the hearing.

7 And so I was adhering to those
8 instructions.

9 MS. REYNOLDS: But, but --

10 HEARING OFFICER WILLIAMS: Well, I
11 think -- excuse me, counsel, I think there's a
12 little difference here. My tendency is to allow
13 her to ask questions on this document, since it
14 was only filed during the course of business
15 yesterday.

16 You know, it's part of an ongoing
17 discussion and an ongoing investigation, really,
18 with respect to the cultural resources component.
19 So, --

20 MS. LUCKHARDT: I understand that, but
21 we did not receive Ms. Dominguez' testimony and
22 claims of lack of notice to Native Americans until
23 January 12th. And so that was the same day our
24 testimony was due in this case.

25 And so her claims are also new to us, as

1 well.

2 MS. REYNOLDS: I would also note that
3 Ms. Dominguez was identified as a witness for CURE
4 as early as I think it was December 19th or
5 whenever we submitted our supplemental prehearing
6 conference statements. So, you have been aware
7 for more than a month that Ms. Dominguez would be
8 testifying on behalf of CURE.

9 HEARING OFFICER WILLIAMS: Well, I tell
10 you what --

11 MS. LUCKHARDT: We were aware that you
12 would testify --

13 HEARING OFFICER WILLIAMS: Excuse me.
14 Let's do this. Let's take up the matter of this
15 particular exhibit for identification, number 22,
16 let's proceed on this exhibit. In your cross-
17 examination or your direct or redirect, or however
18 you want to do it, we'll entertain whatever new
19 document that you would like to enter into
20 evidence. And we'll hear your argument on why you
21 think it should be allowed.

22 Okay, so we'll offer both parties a
23 chance to offer whatever new documentation you
24 feel is needed, because it seems that there is a
25 degree of surprise to both parties. Okay.

1 So why don't you proceed, Ms. Reynolds.

2 BY MS. REYNOLDS:

3 Q Ms. Torres, do you still have your copy
4 of this?

5 A Yes.

6 Q Okay. Do you recognize these?

7 A Yes.

8 Q Did you prepare these?

9 A Yes, I did.

10 Q Are these your signatures at the bottom?

11 A Yes.

12 Q Is this the first time you had contacted
13 these folks?

14 A Yes, it is.

15 Q Okay. When did staff first attempt to
16 contact Native Americans about the project, not
17 just these, but any?

18 A As of the 18th.

19 Q January 18th?

20 A Excuse me a moment. But I would like to
21 qualify that.

22 Q Sure.

23 A In the PSA workshop we found out that
24 OXY planned to have a meeting with Native
25 Americans. And our intent was to attend. But

1 then our understanding was kind of it was in the
2 first part of January. So we thought we would be
3 able to do that in a timely manner.

4 But, we didn't hear anything and time
5 became short, so I assumed that they must have
6 changed the dates, which is why I was making the
7 phone calls.

8 Q Okay. Do the conditions of
9 certification that you have proposed, and either
10 one of you can answer this -- do the conditions of
11 certification expressly require Native American
12 monitors? And I think we're talking about
13 cultural 3 -- or no, cultural 4.

14 Do these conditions -- because I'm
15 reading and it says a discussion, the --

16 PRESIDING MEMBER ROHY: Excuse me,
17 counsel. We're having trouble picking you up.
18 Would you put the recording microphone closer to
19 your voice.

20 MS. REYNOLDS: On page -- I don't know
21 if these page numbers have changed -- on page 249
22 of my FSA cultural 4, item 4 says that the
23 cultural resource monitoring and mitigation plan
24 that the applicant will submit must include a
25 discussion of the inclusion of Native American

1 observers or monitors, the procedures to be used
2 to select them, the areas of post mile sections
3 where they will be needed, and their role and
4 responsibilities.

5 Does cultural 4 expressly require --

6 MS. TORRES: Cultural 4 doesn't, but
7 cultural 9 does.

8 MS. REYNOLDS: Okay. Let's go over
9 that. That requires the owner to consult with
10 Native American Tribal representatives to identify
11 affected tribes or bands, and to develop an
12 agreement for qualified monitors to be present
13 throughout the preconstruction surveys.

14 Would you -- I'm curious as to your
15 interpretation of that. Is your interpretation of
16 that that the applicant must use Native American
17 monitors, how, when, throughout what activities?
18 These conditions are somewhat vague and I'm
19 probing here for whether or not they actually
20 require the use of Native American monitors.

21 MS. TORRES: Well, it --

22 PRESIDING MEMBER ROHY: Again, please
23 use the recording microphone as close to your
24 voice. I'm speaking --

25 MS. REYNOLDS: Am I --

1 PRESIDING MEMBER ROHY: You're okay.

2 MS. REYNOLDS: Okay.

3 HEARING OFFICER WILLIAMS: Counsel, I
4 would point out in this condition that it says
5 that the project owner and the designated cultural
6 resource specialist shall consult with Native
7 American Tribal representatives.

8 So, the word shall to me indicates that
9 that is a requirement.

10 MS. REYNOLDS: Well, my question is what
11 shall they do. It says they shall consult with
12 Native Americans to identify the affected tribes
13 and to develop an agreement.

14 I don't see any specific requirements in
15 there, or what does that need to contain. If they
16 need to call them up and talk to them, do you see
17 where I'm going?

18 DR. GREENWOOD: May I respond to this?

19 MS. REYNOLDS: Yes, please.

20 DR. GREENWOOD: Rather than make this
21 document longer than the whole two volumes of the
22 application, itself, this shall does mean that
23 Native Americans will be present at many levels,
24 many processes, during the entire project.

25 But it is appropriate that the cultural

1 resource specialist to be retained by the
2 applicant or the owner develops the nitty-gritty,
3 the whens, the wheres, the whats, the hows. With
4 the protection to the resource and to the Native
5 American community that this has to be approved by
6 staff.

7 I think this is about as watertight as
8 we can make it.

9 MS. REYNOLDS: Going back to what needs
10 to be approved by staff, --

11 DR. GREENWOOD: In condition 3 the
12 entire monitoring and mitigation plan must be
13 approved by staff.

14 MS. REYNOLDS: Cultural 9, though, does
15 not require approval of staff, correct?

16 DR. GREENWOOD: No, but when --

17 MS. TORRES: Yes, it -- oh, excuse me.

18 DR. GREENWOOD: Well, I'll let you
19 follow it up. The monitoring plan will have set
20 forth with everybody's approval and consent and
21 consultation, when the monitors are to be present.
22 Nine is rather a back-up guarantee --

23 MS. REYNOLDS: Okay.

24 DR. GREENWOOD: -- that they will be
25 present.

1 MS. REYNOLDS: Then let's go back to
2 cultural 4 which requires the applicant to provide
3 a CRMMP, for shorthand, requires the applicant to
4 provide a discussion of inclusion of Native
5 American observers or monitors, and procedures
6 used to select them, et cetera.

7 And that's part of the plan that needs
8 to be approved by staff. Where are -- are there
9 anywhere standards laid out for approval of this
10 plan? What criteria does staff use to determine
11 whether the applicant's proposal for Native
12 American monitors and involvement is approvable?

13 DR. GREENWOOD: Staff will review with
14 great care whatever the applicant provides in this
15 monitoring plan.

16 MS. REYNOLDS: And what standards will
17 you use to assess its adequacy?

18 DR. GREENWOOD: They will develop the
19 standards, we will review them.

20 MS. REYNOLDS: I'm seeking criteria
21 here. Are there -- what criteria will you use?

22 DR. GREENWOOD: There is nothing in
23 strict law that develops these. These are between
24 the professionals, the Native Americans and the
25 staff.

1 MS. REYNOLDS: Okay, thank you.

2 You stated that the CRMMP is very
3 important, that it provides the framework for
4 evaluating the significance of sites and
5 identifies sites that should be avoided, and when
6 further testing is required, et cetera, including
7 Native American monitors.

8 All of these things would happen after
9 the project is certified, is that correct?

10 MS. TORRES: No, they have to happen
11 within the timelines stipulated in the cultural
12 resources conditions. And we moved out the
13 timelines for this project.

14 MS. REYNOLDS: But there's nothing in
15 these conditions, only if it so happened that the
16 110 days fell before a project certification would
17 that approval occur before certification?

18 MS. TORRES: Before earth-disturbing
19 activities, which is our area of concern.

20 MS. REYNOLDS: So there's no guarantee
21 in here that these things will be approved or
22 submitted before the project is certified, is that
23 correct?

24 MS. TORRES: That's correct.

25 MS. REYNOLDS: You also stated on direct

1 that preconstruction surveys would address unknown
2 sites. This will also be done after project
3 certification.

4 MS. TORRES: This will be done 110 days
5 prior to earth-disturbing activities.

6 MS. REYNOLDS: Okay.

7 MS. TORRES: Whichever comes first.

8 MS. REYNOLDS: Okay, thank you. That's
9 all I have.

10 I would like to, at this time, move that
11 exhibit 22 be entered into the record.

12 HEARING OFFICER WILLIAMS: Any
13 objection?

14 MS. LUCKHARDT: Do you want me to object
15 again?

16 HEARING OFFICER WILLIAMS: Other than --
17 (Laughter.)

18 HEARING OFFICER WILLIAMS: No. We've
19 already --

20 MS. LUCKHARDT: My continuing objection
21 still stands.

22 HEARING OFFICER WILLIAMS: You had no
23 substantive objection --

24 MS. LUCKHARDT: To the information
25 that's contained, no.

1 HEARING OFFICER WILLIAMS: -- to the
2 information contained in the document, correct?

3 MS. LUCKHARDT: I have an objection to
4 the timing and my comment is that if you are going
5 to permit CURE to present additional information
6 on an existing issue, that we be permitted to
7 present additional information today on the same
8 issue, relating to the same issue.

9 HEARING OFFICER WILLIAMS: That's my
10 understanding, as well. Are there any other
11 objections?

12 MS. WILLIS: We have no objection.

13 HEARING OFFICER WILLIAMS: Okay.
14 Exhibit 22 is admitted.

15 MS. WILLIS: I have a few questions on
16 redirect.

17 HEARING OFFICER WILLIAMS: Sure, go
18 ahead.

19 REDIRECT EXAMINATION

20 BY MS. WILLIS:

21 Q Ms. Torres, when was the first time that
22 you were contacted by Ms. Dominguez regarding her
23 issues?

24 A I believe it was close to Christmas,
25 Christmas week.

1 PRESIDING MEMBER ROHY: Please speak
2 into the --

3 MS. TORRES: I'm not talking -- yes. I
4 believe it was Christmas week.

5 PRESIDING MEMBER ROHY: Excuse me, could
6 you, saying Christmas week, for us for the record
7 could you tell us what year you're talking about?

8 MS. TORRES: Oh, '99.

9 BY MS. WILLIS:

10 Q So it was late December 1999?

11 A Yes.

12 Q Did staff make any provisions to hear
13 Ms. Dominguez' concerns?

14 A Yes, we did. A workshop was scheduled
15 for the next week.

16 Q And --

17 A I believe.

18 Q And the workshop that was scheduled, was
19 there a reason why it wasn't held?

20 A My understanding of what occurred was
21 that Ms. Dominguez chose not to come. And since
22 that was the reason everyone was coming to the
23 workshop, we didn't have the workshop.

24 Q Back to cultural condition number 9.

25 Would you please refer back to that. Could you

1 review your testimony. Does this condition
2 indicate that a Native American monitor will be
3 present throughout the project construction
4 surveys and construction phase of the project?

5 A Our intent with this condition was to
6 make the Native American monitor part of the
7 cultural resources team, and to have the Native
8 American monitor on site with the cultural
9 resources team whenever monitoring or surveying
10 was going on or any other cultural resources
11 activities.

12 MS. WILLIS: I have no more questions.

13 HEARING OFFICER WILLIAMS: Counsel, any
14 questions?

15 MS. LUCKHARDT: Can I just have one
16 second.

17 (Pause.)

18 MS. LUCKHARDT: No questions.

19 MS. REYNOLDS: No questions.

20 HEARING OFFICER WILLIAMS: Okay.

21 Counsel, do you have any exhibits that you'd like
22 to --

23 MS. WILLIS: I believe we just submitted
24 those into the --

25 HEARING OFFICER WILLIAMS: Okay.

1 MS. WILLIS: -- record.

2 HEARING OFFICER WILLIAMS: All right.

3 CURE.

4 MS. REYNOLDS: Sure.

5 MS. LUCKHARDT: Should I, at this time,
6 make my argument for presenting my additional
7 exhibit?

8 HEARING OFFICER WILLIAMS: Let's do that
9 at the conclusion of CURE's presentation.

10 MS. REYNOLDS: Ms. Dominguez, you have a
11 document in front of you entitled testimony of
12 Delia Dominguez on behalf of the California Unions
13 for Reliable Energy on cultural --

14 HEARING OFFICER WILLIAMS: Excuse me, we
15 need to swear the witness.

16 MS. REYNOLDS: Oh, I'm sorry.
17 Whereupon,

18 DELIA DOMINGUEZ
19 was called as a witness herein and after first
20 being duly sworn, was examined and testified as
21 follows:

22 HEARING OFFICER WILLIAMS: Excuse me.
23 Ms. Luckhardt, the document that you have that you
24 want presented, is it something that you could
25 take up during cross-examination? Is it related

1 to this witness?

2 MS. LUCKHARDT: It is related to this
3 witness, but since this witness is a hostile
4 witness, I am not confident that I will be able to
5 enter it into the record based upon this witness.

6 HEARING OFFICER WILLIAMS: So who would
7 you use to introduce the document?

8 MS. LUCKHARDT: In order to introduce
9 this document the best witness would be an
10 individual from Occidental Petroleum who sent the
11 letter.

12 HEARING OFFICER WILLIAMS: Who? I
13 didn't hear --

14 MS. LUCKHARDT: Who sent the letter.

15 HEARING OFFICER WILLIAMS: Is this
16 witness available?

17 MS. LUCKHARDT: This witness is
18 available and in the room.

19 HEARING OFFICER WILLIAMS: Okay, fine.
20 Okay, proceed.

21 DIRECT EXAMINATION

22 BY MS. REYNOLDS:

23 Q Ms. Dominguez, you have in front of you
24 a document entitled testimony of Delia Dominguez
25 on behalf of the California Unions for Reliable

1 Energy on cultural resources impacts of the Elk
2 Hills Power project.

3 Is this your testimony in this
4 proceeding?

5 A Yes, it is.

6 Q Is everything in that document including
7 the attachments thereto true and correct to the
8 best of your knowledge?

9 A Yes, it is.

10 Q Can you briefly describe for the
11 Committee who you are and why you're concerned
12 about cultural resources at Elk Hills?

13 A Yes. My name is Delia Dominguez and I
14 was born and raised in Bakersfield, California,
15 which is adjacent to Elk Hills. My mother and my
16 grandparents, back to the beginning of time, have
17 lived in that area, including Elk Hills, what is
18 called Elk Hills today, Buena Vista Lake.

19 I am a descendent of those people. My
20 family has always told me that. My children still
21 live in Bakersfield, I only live in the Los
22 Angeles area because I work there. I have been
23 there for 17 years, but I return home every
24 weekend. I was there yesterday and I was there
25 last weekend.

1 We frequent the Elk Hills area and the
2 surrounding areas. However, we cannot access
3 them. I am also the Chairwoman for our tribe at
4 this time. And my concern for all of our welfare,
5 I try to take care of all of those issues that
6 have to do with us, including Elk Hills, Buena
7 Vista Lake, to try to insure that those areas are
8 protected for today and tomorrow, and the past.

9 I have a great deal of concern for this
10 area. I know that it is constantly in danger of
11 losing its significance of the past and really the
12 future of our people. Whenever it loses the
13 significance it is a chipping away at our culture.
14 And that is my concern, and that is our tribe's
15 concern, that those things continue to remain
16 intact.

17 We, in no way, object to a project, or
18 to removal of any oil. We, in no way, are in
19 objection to removing any kind of minerals that
20 are underground. Our concerns are the living
21 areas.

22 PRESIDING MEMBER ROHY: Please speak up
23 some more.

24 MS. DOMINGUEZ: And what those living
25 areas contain.

1 BY MS. REYNOLDS:

2 Q Can you briefly discuss your knowledge
3 about cultural resources at the Elk Hills.

4 A My knowledge of Buena Vista Lake, Elk
5 Hills area is what my family has told me all the
6 time that I have grown up. It is based on what
7 the tribal families have told me, and what we have
8 discussed, and what I have discussed with other
9 neighboring tribes.

10 As I have become involved in these
11 projects that are now occurring on Elk Hills, I
12 have now begun to study the site records.
13 Something I had never done before. In the last
14 ten days I have spoken to four separate
15 archaeologists. I have gone to the Southwest
16 Museum twice and spent seven hours scouring their
17 records of excavations at Elk Hills.

18 I have spoken to -- I've worked with
19 UCLA on the remains that are housed there under
20 NAIPRA in the hopes that they may return them to
21 us. I have also spoken with the state parks, who
22 also have remains from that area, and discussing
23 with them the return of those remains.

24 Q Did you just become involved in these
25 issues recently?

1 A Pardon me?

2 Q Did you just become involved in these
3 activities recently?

4 A Working with State Parks and UCLA it has
5 been about three to four years. And when the
6 acquisition took place of -- when Elk Hills
7 transferred from the Department of Energy to
8 Occidental we also then became very very involved.

9 I've also recently received from another
10 tribal representative from the Paiutes who gave me
11 this binder of remains that have been removed from
12 Elk Hills and are housed at the Smithsonian, who
13 asked me to bring these here to bring to your
14 attention of the severity of what is happening
15 there whenever any kind of excavation happens.

16 And that we, as a Native People, then
17 have to deal with this. I don't particularly like
18 to go through that.

19 What I also discovered at the Southwest
20 Museum disturbed me. I don't particularly like to
21 read about the men and the women and the children,
22 and the babies removed from the earth.

23 Again, we're not against the removal of
24 oil or any of the minerals. Our only concern are
25 the cultural areas. And we're asking that those

1 areas be preserved.

2 Q Do you oppose a power plant in general?

3 A No. We do not.

4 Q Can you explain briefly your concerns
5 about potential impacts associated with project
6 construction? This project.

7 A This project is traveling through four
8 different lines and also where the energy plant is
9 going to be built. Through my review of these
10 site records, and the various maps that I have
11 received from draft reports that Occidental has
12 sent out, I have seen a number of registered
13 sites, many of the sites have been excavated. And
14 have been reviewed for National Register
15 eligibility.

16 Many have not. And I have learned in
17 the last few days, in speaking with various
18 archaeologists, that there are a number, a number
19 of sites that have been identified that have not
20 been fully reviewed, that may very likely meet the
21 criteria for the National Register of Historic
22 Places.

23 Before excavation takes place we need to
24 find out first what is there before we start
25 building the plant or putting in those lines. If

1 you start construction beforehand and then run
2 into, heaven forbid, a large burial site, which
3 has happened in areas just adjacent to the MPR
4 property, I'm going to have to go out there and
5 deal with it. I don't want to deal with it, but I
6 will have to do that.

7 I don't want to see another binder like
8 this filled with remains and description of what
9 was taken and what was in those graves. I don't
10 want to see that. Our tribe does not want to see
11 that. Neighboring tribes don't want to see it.
12 And it's not good publicity even for the city,
13 because this will hit the papers. As I saw the
14 newspaper accounts when this happened, I saw those
15 copies, also.

16 Q You stated in your testimony the
17 mitigation that you would like to see incorporated
18 into the proposed conditions of certification.
19 Can you just briefly discuss the key points of
20 that mitigation?

21 A Again, we're not opposed to the building
22 of this energy plant or the removal of any oil or
23 any of those minerals or gas or whatever is
24 underground.

25 I am hoping that somehow we could find

1 some means of not having to disturb the top of the
2 earth, the soil. I understand that there is a
3 method of boring that goes completely under and
4 completely avoids what is just from the ground,
5 just to certain levels.

6 I understand that that kind of boring
7 can go on for more than a mile, and have gone a
8 long way to remove oil from underground.

9 If there was another place that this
10 plant could be put, but that area where it's on,
11 that hill, it's a hill that goes up like this.
12 And down here at the bottom the lower levels is
13 where there was a big lake.

14 And so actually this hill around the
15 edges is a perfect place to live. And that's why
16 there are so many sites all around that water's
17 edge.

18 Q Why is it important for you that sites
19 be adequately identified and characterized before
20 construction begins?

21 A Sites need to be determined before
22 construction begins. I don't believe that the
23 applicant would be willing to move that line if
24 something significant is suddenly found. I
25 believe that it needs to be determined before you

1 get in there, that whole line needs to be
2 determined, what is there right now before that
3 construction begins.

4 Q Why is it important to you that Native
5 American monitors be on site during earth
6 disturbance and clearing?

7 A An experienced monitor is familiar with
8 what to identify, and the earth is -- when you dig
9 into the earth. Simply to put an Indian person
10 there is not sufficient. An experienced
11 individual must be able to go out there and
12 identify.

13 And if he has to, or she has to stop a
14 project, those people know what to look for. They
15 can also identify materials that are found in the
16 ground where other people, it would not mean
17 anything. An experienced monitor can identify
18 tools. He can identify a hearth which could be
19 used for mourning which would identify possibly a
20 sacred area where ceremonies would have taken
21 place.

22 He or she can identify if they are
23 suddenly coming into a burial site before damage
24 is done to the remains.

25 Q Can you discuss the consultation

1 agreement that's in exhibit C to your testimony
2 and why you feel that's important?

3 A Having an agreement in place where the
4 Native people can sit at a table like this with
5 the applicant or whoever it is that we need to
6 speak to, so that we can discuss fully what will
7 happen out there, and what we will do, and various
8 situations that will be encountered. Knowing that
9 in advance is very important.

10 If something happens out there and you
11 don't have something in place, then one, you're
12 going to lose time, you're not going to know who
13 to contact or who to call, or what do we do. Here
14 we can put things in place and discuss this and
15 what we will need in case something does happen
16 out there.

17 Q Ms. Dominguez, you were previously
18 involved in a lawsuit regarding Elk Hills. I
19 believe that was filed against the Department of
20 Energy when the property was sold to Occidental.
21 Can you describe your involvement --

22 MS. LUCKHARDT: I'd like to object to
23 this question. This is a line of questioning that
24 has not been entered in her prefiled testimony,
25 nor has it been the subject of anyone else's

1 testimony in this proceeding.

2 MS. REYNOLDS: Well, Ms. Luckhardt, you
3 were the one --

4 HEARING OFFICER WILLIAMS: Excuse me,
5 counsel. Let's take a brief recess, maybe five
6 minutes, and then we'll go back on the record and
7 deal with this issue.

8 (Brief recess.)

9 HEARING OFFICER WILLIAMS: Before the
10 break there was an objection posed to testimony
11 concerning apparently a lawsuit that Ms. Dominguez
12 was involved in.

13 During the break, and I must admit,
14 apparently -- I have to recheck because we
15 reviewed Ms. Dominguez' testimony, because when it
16 came in apparently it was all locked up as
17 confidential. I hadn't had an opportunity to
18 review it.

19 But I have reviewed it, and I've marked
20 it for identification as exhibit number 23,
21 testimony of Delia Dominguez on behalf of
22 California Unions for Reliable Energy on cultural
23 resources impacts of the Elk Hills Power project.

24 There's nothing in here that pertains to
25 any auxiliary lawsuit. So, I'm prepared to

1 sustain the objection and not allow any testimony
2 on that.

3 MS. REYNOLDS: That's fine. The only
4 reason I brought it up was in anticipation of
5 cross-examination. Ms. Luckhardt previously filed
6 something with the Energy Commission related to
7 the earlier lawsuit, and so in anticipation of
8 questions about Ms. Dominguez' involvement in the
9 lawsuit I was going to just ask a couple of
10 questions about how that just resolved. Not
11 anything substantive.

12 I can just suspend that, and if those
13 issues are brought up on cross, I can do redirect
14 on that. I'm perfectly happy with that.

15 HEARING OFFICER WILLIAMS: Let's do
16 that.

17 MS. REYNOLDS: Okay.

18 HEARING OFFICER WILLIAMS: Thank you.

19 MS. REYNOLDS: Okay, I --

20 PRESIDING MEMBER ROHY: May I ask your
21 witness a question?

22 MS. REYNOLDS: Sure.

23 PRESIDING MEMBER ROHY: Ms. Dominguez, I
24 believe that the Commission and this Committee
25 understands your concerns to the extent that we

1 can, and is very sympathetic to your concerns.

2 When I read through the staff's revised
3 cultural conditions, in my mind, at least, they
4 seemed to address your concerns.

5 What I would like you to state is where
6 they do not, if you believe so, or do you have
7 additional language, or what specifically do you
8 find that is inadequate in the staff's recommended
9 cultural conditions.

10 MS. DOMINGUEZ: The basic concerns that
11 we have, I believe that they are being addressed,
12 and -- it's not in the mike? Okay.

13 PRESIDING MEMBER ROHY: You just have to
14 speak louder.

15 MS. DOMINGUEZ: Okay. But I think that,
16 you know, as I indicated earlier there need to be
17 more specifics written in so that we can assure
18 that we do have a clear understanding of what, you
19 know, what to expect and what we are able to agree
20 with.

21 PRESIDING MEMBER ROHY: So your issue is
22 on the degree of specificity?

23 MS. DOMINGUEZ: Yes. And as I mentioned
24 before, what we're concerned with is a level of
25 earth before you get to any oil or gas, that is

1 our concern.

2 PRESIDING MEMBER ROHY: I understand
3 your concerns. I just wondered with regard to the
4 staff's conditions if there was any language that
5 you had that would change it?

6 MS. DOMINGUEZ: No, other than as it
7 needed to be more specific and I believe Ms.
8 Torres kind of indicated that they would be
9 written in more clearly.

10 PRESIDING MEMBER ROHY: Thank you, --

11 MS. DOMINGUEZ: It would be developed.

12 PRESIDING MEMBER ROHY: -- and thank you
13 for allowing me -- excuse me.

14 MS. REYNOLDS: Yeah, we intended to do
15 kind of a redline strike-out in our briefs
16 following testimony.

17 HEARING OFFICER WILLIAMS: Okay, --

18 MS. REYNOLDS: I just had a couple more
19 questions for Ms. Dominguez.

20 HEARING OFFICER WILLIAMS: Go right
21 ahead, please.

22 BY MS. REYNOLDS:

23 Q Regarding the map that was attached to
24 your testimony, can you discuss that, why you felt
25 it necessary to be included in your testimony, and

1 whether it's complete, that kind of thing?

2 HEARING OFFICER WILLIAMS: Counsel,
3 excuse me, which map?

4 MS. REYNOLDS: Exhibit B to her
5 testimony.

6 HEARING OFFICER WILLIAMS: That's not
7 the confidential --

8 MS. REYNOLDS: Yes, it is.

9 HEARING OFFICER WILLIAMS: It is?

10 MS. REYNOLDS: She's not going to yank
11 it out or anything, but --

12 HEARING OFFICER WILLIAMS: Okay.

13 MS. REYNOLDS: -- we're not going to
14 disclose any confidential information right now.

15 HEARING OFFICER WILLIAMS: Okay. So,
16 exhibit B, confidential map.

17 MS. DOMINGUEZ: I thought it necessary
18 to submit a map. It's extremely incomplete, as I
19 have been reviewing more and more documents this
20 past week it seems like every document that I pick
21 up I've got more to add onto that map.

22 And I believe that it could be -- that
23 map that was submitted is less than half of the
24 information that should be on there.

25 And we thought by plotting all the sites

1 that we could find on that map you could see --
2 you could get a big picture that we're not just
3 looking at a few registered eligible sites. We're
4 actually looking at a very large area. And I
5 always refer to this area like a city. So it's
6 not just one little town. It's so spread out over
7 this foothill area.

8 And as I went through these site records
9 and I spoke to some archaeologists and they
10 indicated to me that the large areas that could --
11 some of the sites don't indicate how big the areas
12 are. There is at least one site that's noted on
13 there that could fill a square mile. Just one
14 site, alone.

15 There are other sites that are not quite
16 as big, but almost a mile in square, if you could
17 put it in a square. There's some areas that were
18 not tested. There are clusters of little sites.
19 And I understand, I was advised by an archeologist
20 that this is an indication that this could
21 actually be one big site. If the surveys go
22 underground and really test it, it has a very high
23 potential of again being another registered
24 eligible site.

25 And every section that I looked at,

1 there was site after site after site. And, as I
2 said before, the map that we submitted is so
3 incomplete. And tomorrow there would be more
4 sites to put on there.

5 MS. REYNOLDS: That's all I have on
6 direct.

7 HEARING OFFICER WILLIAMS: Okay. Cross-
8 examination?

9 MS. LUCKHARDT: We have no cross.

10 HEARING OFFICER WILLIAMS: Cross?

11 MS. WILLIS: No questions.

12 HEARING OFFICER WILLIAMS: Okay. Any
13 questions?

14 Okay, Ms. Luckhardt, I think we should
15 now probably address the document that you wanted
16 to admit.

17 MS. LUCKHARDT: After hearing Ms.
18 Dominguez' testimony we have determined that it
19 will not be necessary to submit that document.

20 HEARING OFFICER WILLIAMS: All right.

21 MS. REYNOLDS: Do we have confidential
22 stuff to cover?

23 MS. LUCKHARDT: Yes, we have a brief
24 portion regarding the confidential materials, the
25 locations of specific sites shown on

1 Ms. Dominguez' map. We would like to address
2 that.

3 HEARING OFFICER WILLIAMS: Yeah, i think
4 that --

5 MS. LUCKHARDT: And that is --

6 HEARING OFFICER WILLIAMS: And we're
7 going to have to close the hearing for that. So,
8 at this point, I'm going to have to -- I'm
9 sorry --

10 MS. REYNOLDS: I'm sorry, I forgot to
11 move to enter Ms. Dominguez' testimony as exhibit
12 23 into the record.

13 HEARING OFFICER WILLIAMS: Yes. Any
14 objections?

15 MS. LUCKHARDT: No objections.

16 MS. WILLIS: No objection.

17 HEARING OFFICER WILLIAMS: Okay, exhibit
18 23 is admitted into evidence. And at this point
19 I'm going to have to ask that the hearing room be
20 cleared except for those witnesses who have need
21 to know with regard to the confidential testimony
22 on the cultural resources and their attorneys.

23 Off the record.

24 (Off the record.)

25 HEARING OFFICER WILLIAMS: The record

1 should reflect that the parties had an opportunity
2 to review the confidential maps relating to
3 cultural resources.

4 And that there was an opportunity for
5 cross-examination on that confidential map or maps
6 relating to sites of concern in the cultural
7 resources area.

8 And that all parties were satisfied that
9 there was a fair and reasonable opportunity to see
10 both the sites and question, to ask questions on
11 those matters that are relevant to our hearing in
12 the cultural resources area.

13 And that all parties, intervenors were
14 present during the viewing of the maps. And there
15 was an agreement that all those present had a need
16 to know and were interested in those matters.

17 And I think with that we can move on.

18 MS. LUCKHARDT: I have nothing further
19 in cultural resources.

20 MS. REYNOLDS: Me, neither.

21 MS. WILLIS: Nothing.

22 HEARING OFFICER WILLIAMS: Well, so I
23 think at this point, having nothing further to
24 provide, and having --

25 MS. WILLIS: We did have one procedural

1 question for the next --

2 HEARING OFFICER WILLIAMS: I think, yes,
3 now is the time.

4 MS. WILLIS: Okay, great. The next set
5 of hearings on the 25th of January we would like
6 to request just a change in order to move the
7 public health topic right above the hazardous
8 materials topic, so the order would be land use,
9 transmission system engineering, transmission line
10 safety and nuisance and then public health.

11 That way our witnesses can be kind of
12 grouped together.

13 MS. REYNOLDS: We have no objection to
14 that.

15 MS. LUCKHARDT: We have no objection,
16 either.

17 HEARING OFFICER WILLIAMS: All right,
18 that's what we'll do, seeing no objections.

19 MS. LUCKHARDT: We have a couple other
20 issues. One, I request that you close the record
21 on cultural resources at this time.

22 HEARING OFFICER WILLIAMS: Okay, the
23 record on cultural resources is closed.

24 MS. LUCKHARDT: And then we have one
25 other issue which I would prefer to have

1 Mr. Taylor Miller explain to you.

2 HEARING OFFICER WILLIAMS: Okay.

3 MR. MILLER: I would like to request a
4 slight change in the manner of presentation of
5 some items on the hearing on the 27th.

6 HEARING OFFICER WILLIAMS: Okay.

7 MR. MILLER: This is a matter I believe
8 we've discussed among the parties before we went
9 on the record earlier this morning. It has to do
10 with the presentation of worker safety and waste
11 matters.

12 Our request is that we proceed with
13 matters other than those related to soil
14 excavation under waste first, with our witness
15 being Mr. Cronk. And that we combine into a panel
16 issues relating to soil excavation as they relate
17 either to waste or worker safety subsequent to
18 that, with the witnesses for the applicant being
19 Messrs. Cronk, Morgato and Rowley.

20 I don't believe there's any objection to
21 that approach, but --

22 MS. REYNOLDS: No.

23 MS. WILLIS: We have no objection to
24 that.

25 HEARING OFFICER WILLIAMS: Okay.

1 MS. REYNOLDS: So we'll deal with them
2 in the same order, but it's just waste management
3 we'll deal with nonhazardous related things, and
4 then we'll --

5 MR. MILLER: Right, we'll just segregate
6 out the noncontroverted item first, and then deal
7 with the other at one time.

8 HEARING OFFICER WILLIAMS: Okay.

9 MS. REYNOLDS: That's more convenient
10 for us, too, because Dr. Fox's testimony is
11 combined for those areas.

12 HEARING OFFICER WILLIAMS: Okay, fine.
13 My records show that we are up to exhibit 23 was
14 the last document, and that was Ms. Dominguez'
15 testimony. Absent the confidential map. And
16 exhibit 22, two pages, both reports of discussion
17 filed by staff. Page 1 is a discussion with
18 Eugene Albaturi and the second is a discussion
19 with Mr. -- looks like Zurati. Both dated January
20 18, 2000.

21 And we agreed that exhibit 21 would
22 contain all changes to testimony, and we went
23 through 21A and 21B. Does that square with --
24 okay.

25 If then there is nothing further today

1 we'll stand adjourned.

2 (Whereupon at 3:30 p.m., the hearing was
3 adjourned, to reconvene Tuesday, January
4 25, 2000, at this same location.)

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CERTIFICATE OF REPORTER

I, DEBI BAKER, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Hearing; that it was thereafter
transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
Hearing, nor in any way interested in the outcome
of said Hearing.

IN WITNESS WHEREOF, I have hereunto set
my hand this 25th day of January, 2000.

DEBI BAKER

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